

# **HOUSE RESOURCE & CONSERVATION**

## **ADMINISTRATIVE RULES REVIEW**

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## **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

### **13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-104(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The current military raincheck and refund rule is specific to Special Operation Iraqi Freedom and has been amended previously to extend its applicability to subsequent calendar years. An amendment to the rule is necessary to broaden the scope to include members of the military who have been deployed to other war zones or in armed conflict, and to remove the reference to a specific year. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 153-155.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Barton (208) 287-2798.

DATED this 27th day of October, 2005.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, ID 83707  
(208) 334-3715, Fax (208) 334-2148

# **RESOURCE & CONSERVATION**

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing Licensing**

**Docket No. 13-0104-0501**  
**PENDING RULE**

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## ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is May 23, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-104(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The current military rain check and refund rule is specific to Special Operation Iraqi Freedom and has been amended previously to extend its applicability to subsequent calendar years. An amendment to the rule is necessary to broaden the scope to include members of the military who have been deployed to other war zones or in armed conflict, and to remove the reference to a specific year.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The temporary rule confers a benefit to military personnel who do not have an opportunity to hunt or fish due to deployment to a combat zone.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the rain check or refund rule beyond the 2004 calendar year and the military personnel who are most interested in the rule are deployed to combat zones.

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DEPARTMENT OF FISH AND GAME  
Rules Governing Licensing

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PENDING RULE

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Steve Barton (208) 287-2798.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 17th day of August, 2005.

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 602. ~~SPECIAL OPERATION IRAQI FREEDOM~~ MILITARY DEPLOYMENT REFUND AND RAIN CHECK.

**01. ~~2004~~ Special Refund and Rain Check Rule.** This special refund and rain check rule applies ~~only~~ to the ~~2004~~ appropriate calendar hunting season. Because of military deployment to ~~Operation Iraqi Freedom~~ areas of armed conflict, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. ~~(4-6-05)(5-23-05)T~~

**02. ~~2005~~ Special Refund and Rain Check Eligibility.** Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment ~~for Operation Iraqi Freedom~~ to areas of armed conflict will be eligible for a refund or rain check for license and tags for the ~~2005~~ next calendar year hunting season as outlined in this rule. ~~(4-6-05)(5-23-05)T~~

**03. General Season Tag.** Holders of a general season tag for deer or elk may request: (3-20-04)

a. A refund of the hunting license and tag fee; (3-20-04)

b. A rain check for a hunting license and same tag for the ~~2005~~ next calendar year hunting season; or ~~(4-6-05)(5-23-05)T~~

c. An exchange in ~~2004~~ the calendar year for a tag in another zone or area so long as tags are available in that area or zone. ~~(4-6-05)(5-23-05)T~~

**04. Controlled Hunt Permit and Tag.** Holders of a controlled hunt permit and tag for deer, elk, or antelope may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and tag fee; (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and tag for the same controlled hunt in the ~~2005~~ next calendar year hunting season; or ~~(4-6-05)(5-23-05)T~~

c. An exchange in ~~2004~~ the calendar year for a hunting license and a general season

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tag in another zone or area so long as tags are available in that area or zone. ~~(4-6-05)~~(5-23-05)T

**05. Nonresident Bear or Mountain Lion Tags.** Holders of nonresident bear or mountain lion tags may request: (3-20-04)

a. A refund of the hunting license and tag fee; or (3-20-04)

b. A rain check for a hunting license and tag for the ~~2005~~ next calendar year hunting season. ~~(4-6-05)~~(5-23-05)T

**06. Moose, Bighorn Sheep, or Mountain Goat Controlled Hunt Permits.** Holders of moose, bighorn sheep, or mountain goat controlled hunt permits may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and controlled hunting tag fee; or (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and controlled hunt tag for the ~~2005~~ next calendar year hunting season. ~~(4-6-05)~~(5-23-05)T

**07. Ineligible to Request Tag or Permit Refund or Rain Check.** If the person hunts a species of wildlife before requesting a refund or rain check, then the tag or permit fee for that species will not be refunded or eligible for a rain check for the ~~2005~~ next calendar year season. ~~(4-6-05)~~(5-23-05)T

**08. Ineligible to Request License Fee Refund or Rain Check.** If the person hunts for any species during the ~~2004~~ applicable year hunting season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the ~~2005~~ next calendar year season. ~~(4-6-05)~~(5-23-05)T

**09. Rain Check Requests Must be for Same Species.** All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the ~~2005~~ next calendar year season. ~~(4-6-05)~~(5-23-05)T

**10. Refunds Will be for the Amount Paid.** All refunds will be for the amount the person paid for the hunting license or tag. (3-20-04)

**11. Use of Department-Approved Form for Rain Check or Refund Request.** Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website ~~www2.state.id.us/fishgame~~ <http://fishandgame.idaho.gov/>) by January 1, ~~2005~~ next calendar year, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in ~~Operation Iraqi Freedom~~ areas of armed conflict. Those requests received after this date will not be eligible for the special refund or rain check. ~~(4-6-05)~~(5-23-05)T

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## **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

### **13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO**

**DOCKET NO. 13-0108-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**Season setting for Big Game. A proposed rule amendment to increase eligibility for left-over Moose permits, allow the use of round ball or conical lead bullets in traditional muzzleloader hunts, and require applicants for outfitter allocated controlled hunts to have a written agreement with an outfitter before submitting a controlled hunt application. The development of application criteria, drawing criteria and marketing procedures for certain controlled hunt tags to support the Department's Access Yes program. Grant priority to military personnel returning from active duty for emergency depredation hunts. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 156-166.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brad Compton (208) 287-2756.

DATED this 27th day of October, 2005.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25

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**DEPARTMENT OF FISH AND GAME**  
**Rules Governing the Taking of Big Game**

**Docket No. 13-0108-0501**  
**PENDING RULE**

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Boise, Idaho 83707

## ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is **January 24, 2005**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: **Season setting for Big Game. A proposed rule amendment to increase eligibility for left-over Moose permits, allow the use of round ball or conical lead bullets in traditional muzzleloader hunts, and require applicants for outfitter allocated controlled hunts to have a written agreement with an outfitter before submitting a controlled hunt application. The development of application criteria, drawing criteria and marketing procedures for certain controlled hunt tags to support the Department's Access Yes program. Grant priority to military personnel returning from active duty for emergency depredation hunts.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The temporary rule confers a benefit to hunters and outfitters.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the controlled hunt applications and drawings

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without interruption and to publish the Big Game Seasons Proclamation Brochures.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 17th day of August, 2005.

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **260. PERMITS FOR CONTROLLED HUNTS.**

**01. Use of Controlled Hunt Permits.** No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

**a.** A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

**b.** In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

**c.** Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

**d.** Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

**e.** Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

**f.** Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

**g.** Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

**h.** Any person who receives a fall controlled hunt permit for black bear is prohibited



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from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

**02. Nonresident Permit Limitations.** (3-20-04)

**a.** In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-6-05)

**b.** Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

**c.** For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

**03. Eligibility.** Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

**a.** Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

**b.** Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

**c.** Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)

**d.** Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram

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## DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Big Game

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or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies.

(4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year.

(7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year.

(7-1-93)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit.

(7-1-93)

h. Any person who has killed an antlered moose in Idaho may not apply for a moose permit for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a permit for antlerless moose EXCEPT that any person may apply for permits remaining unfilled after the controlled hunt draw.

~~(4-5-00)~~(1-24-05)T

i. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature.

(7-1-98)

j. Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag.

(7-1-93)

k. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs".

(7-1-99)

l. Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application.

(1-24-05)T

**04. Applications.** Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has

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incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)

- a. Spring black bear - Application period - January 15 - February 15. (4-6-05)
- b. Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. (4-6-05)
- c. Deer, elk, antelope and fall black bear - Application period for first drawing - May 1 - 31. (4-6-05)
- d. Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (4-6-05)
- e. Deer, elk, antelope, and fall black bear - Application period for second drawing - August 5 - 15. (4-6-05)

**05. Applicant Requirements.** Applicants must comply with the following requirements: (7-1-93)

- a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)
- b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)
- c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)
- d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (4-6-05)
- e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal

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## **DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Big Game**

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business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

**f.** A “group application” for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

**g.** A “group application” for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

**h.** If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

**i.** Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

### **06. Refunds of Controlled Hunt Fees.** (7-1-93)

**a.** Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

**b.** Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**c.** Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

**d.** Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

**07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

**08. Unclaimed Permits.** Successful applicants for the first deer, elk, black bear, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or

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unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-6-05)

### **261. SPECIAL CONTROLLED HUNTS.**

**01. Special Controlled Hunt Program.** The Special Controlled Hunt Permit Program is a program to partially fund a sportsman access program adopted by the Fish and Game Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and antelope, and four (4) tags for moose.

(1-24-05)T

**a.** The rules for controlled hunts set forth in Section 260, of these rules, do not apply to the Special Controlled Hunt Program. (1-24-05)T

**b.** The Special Controlled Hunt application will be marketed by the Department of Fish and Game. The Department will issue these tags to eligible persons selected by an impartial random lottery draw process. The successful applicants will receive the tag and controlled hunt permit necessary to hunt the appropriate species. The Department's various license issuing systems and other methods may be used to market the applications. (1-24-05)T

**02. Moneys.** The Department shall deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department shall specifically use funds for the sportsman access program. (1-24-05)T

**03. General Rules.** (1-24-05)T

**a.** Any individual, resident or nonresident, may purchase and submit applications without limit. (1-24-05)T

**b.** Blank special controlled hunt applications may be given or transferred to other individuals, or entered in the name of individuals other than the purchaser. (1-24-05)T

**c.** Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. (1-24-05)T

**d.** Each tag will be issued to the individual named on the drawn application that meets license eligibility requirements and cannot be transferred. (1-24-05)T

**e.** An individual may be drawn for only one (1) special controlled hunt tag for each species. (1-24-05)T

**f.** Each special controlled hunt tag is valid for the designated species and allows the hunter to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. (1-24-05)T

**g.** The special controlled hunt tag shall be in addition to any other tag the hunter is eligible to obtain. (1-24-05)T

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**h.** Any applicant, including those who harvest an animal on a special controlled hunt tag, shall be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. (1-24-05)T

**i.** Prior to the Department issuing any license, tag or permit to a successful applicant, the individual must complete and sign a statement certifying his eligibility to obtain and possess an Idaho hunting license and the required permits and tags. In the event a license, tag or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. (1-24-05)T

**04. Application Fees.** The Commission intent for this special controlled hunt program is to provide some of the funding for a statewide sportsman access program. Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. (1-24-05)T

**05. Drawing Dates.** There will be two (2) drawings. All drawings shall be held at 10 a.m. at the Department of Fish and Game offices in Boise, Idaho. The first drawing will be on or about June 15, and the second drawing will be on or about August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. (1-24-05)T

**06. Department Marketed Applications.** (1-24-05)T

**a.** Individual applications for special controlled hunts shall be made on a form prescribed by the Department. (1-24-05)T

**b.** All applications must be received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, 1075 Park Blvd., PO Box 25, Boise, Idaho 83707-0025, no later than 5 p.m. (MST), May 31 of the current calendar year for the first drawing and no later than 5 p.m. (MST), July 31, of the current calendar year for the second drawing. Applications received after July 31 shall be ineligible for any drawing. If either drawing date is a Saturday, Sunday or other legal holiday, then the applications must be received on the next legal business day. (1-24-05)T

**c.** All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. (1-24-05)T

**d.** Any individual application that is unreadable, has multiple or no species box checked, has incomplete or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (1-24-05)T

**e.** The Department shall sell applications through its electronic licensing system from July 28 through November 30. (1-24-05)T

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f. For each tag available, the Department shall draw one (1) winner and two (2) alternates. All alternates will be drawn after all winners have been drawn. Should the winner be ineligible, deceased or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt permit shall be null and void and shall not be issued to any other person. The names and addresses of the alternates shall be confidential until the winner is issued all required licenses, tags or permits. (1-24-05)T

**07. Refunds of Special Controlled Hunt Fees.** (1-24-05)T

a. The application fee is not refundable. (1-24-05)T

b. The special controlled hunt tag, permit and related hunting license are not refundable for any reason. (1-24-05)T

~~261~~262. -- 269.(RESERVED).

### (BREAK IN CONTINUITY OF SECTIONS)

#### 410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

**01. Firearms.** (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

**02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives.** (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at

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a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

- c.** With any chemicals or explosives attached to the arrow or bolt. (7-1-93)
- d.** With arrows or bolts having expanding broadheads. (7-1-93)
- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four hundred (400) grains. (3-20-97)
- j.** With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)

  - i.** With any device attached that holds a bow at partial or full draw. (7-1-93)
  - ii.** With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

  - i.** With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
  - ii.** With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)

  - a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn



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sheep, mountain goat, or black bear. (7-1-93)

b. With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)

c. During a MUZZLELOADER ONLY season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket which: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)

vii. Is equipped only with flint, musket cap, or percussion cap. (4-6-05)

d. During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-15-02)

i. Is loaded only with loose black powder or Pyrodex. (3-15-02)

ii. Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. Sabots are not allowed. ~~(3-15-02)~~(1-24-05)T

**04. Short-Range Weapon.** During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

**05. Other.** (7-1-93)

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- a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)
- b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals". (3-30-01)
- c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)
- d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)
- e. Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (4-6-05)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **412. MOTORIZED VEHICLE USE RESTRICTION UNITS.**

The motorized vehicle use restriction applies to areas and hunts in units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 45, 47, 48, 50, 51, 52, 53, 56, 58, 59A, 66, 70, 72 (late season), 73, 75, 77, and 78. The specific hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. (1-24-05)T

**4123. -- 419. (RESERVED).**

### (BREAK IN CONTINUITY OF SECTIONS)

#### **800. EMERGENCY DEPREDAATION HUNTS.**

**01. Eligibility.** (7-1-93)

- a. Only Idaho residents with a valid Idaho hunting or combination license are eligible to apply to participate in emergency depredation hunts. (7-1-93)

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b. Persons submitting applications for emergency depredation hunts are eligible to apply for controlled hunts or may hunt in the general season. (7-1-93)

### 02. Applications. (7-1-93)

a. Applicants must submit a depredation hunt application and mail it to the regional office of the Idaho Department of Fish and Game in the area(s) they are willing to hunt. Applicants may apply to different areas for deer, elk and antelope. (7-1-93)

b. Applicants may submit only one (1) application per year for each species. An individual or a group may apply on an application. A group is defined as two (2) hunters applying for the same depredation hunt on the same application. On a group application both hunters must comply with all regulations, complete the application properly, and abide by the same depredation hunt choice. If an individual submits application for more than one (1) species, he does not have to be in the same group for each application. Separate applications may be submitted for deer, elk and antelope. (7-1-93)

c. Application can be made in only one (1) region for deer, one (1) for elk, and one (1) for antelope. (7-1-93)

d. Any form not properly completed will be ineligible for selection. (7-1-93)

e. Any holder of an antlerless or doe/fawn controlled hunt permit/tag will be considered an applicant for any depredation hunt for that species which is: (7-1-93)

i. Held prior to the antlerless or doe/fawn controlled hunt; and (7-1-93)

ii. Is in the same area as the depredation. (7-1-93)

f. Any holder of an antlerless or doe/fawn controlled hunt permit/tag may also apply for a depredation hunt in any region. (7-1-93)

g. A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. (7-1-93)

h. Military personnel returning from active duty after June 30 may apply at any time and will be given priority in the selection process. (1-24-05)T

**03. Selection Of Participants.** The Department shall place all applications (individual or group) for each depredation hunt received by June 30 in random order. All applications received after June 30 shall be placed at the end of the list in the order received, except that military personnel returning from active duty will be given priority. The Department shall select participants for a hunt in the order in which applicants appear on the list EXCEPT for those hunts which precede, or at the discretion of the Regional Supervisor, follow a controlled hunt for doe/fawn or antlerless animals. If a depredation hunt is scheduled before or at the discretion of the Regional Supervisor a doe/fawn or antlerless hunt in the same unit, the holders of the doe/fawn or antlerless permit/tags will be given the option to hunt in the depredation hunt. If no doe/fawn or

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antlerless hunts are scheduled in that unit, or if some depredation hunt permits are not taken by controlled hunt permittees, participants will be selected from applicants for that depredation hunt. If a group application is selected, both hunters will be offered depredation hunt permits.

(~~7-1-98~~)(1-24-05)T

# ***RESOURCE & CONSERVATION***

## **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

### **13.01.10 - RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE OR SALVAGE OF WILDLIFE**

**DOCKET NO. 13-0110-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-2205(c), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**Address the requirements and specifications for possessing or raising wildlife for medical research. Correct terminology throughout the chapter. Clarify the requirement for an importation permit. Clarify and update the allowed species importation list. Set bird disease standards and bird marking standards for shooting preserves. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 169 through 181.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Mark Drew (208) 454-7646.

DATED this 27th day of October, 2005.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DEPARTMENT OF FISH AND GAME**

**Importation, Possession, Release, Sale or Salvage of Wildlife**

**Docket No. 13-0110-0501**

**PENDING RULE**

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is May 23, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-2205(c) Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Address the requirements and specifications for possessing or raising wildlife for medical research. Correct terminology throughout the chapter. Clarify the requirement for an importation permit. Clarify and update the allowed species importation list. Set bird disease standards and bird marking standards for shooting preserves.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The temporary rule confers a benefit to commercial wildlife farms and wildlife research facilities, and other persons who possess wildlife.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to address the immediate concerns of a proposed wildlife research facility and the lack of a unified source to represent the divergent interests and types of wildlife possession.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN**

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**COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Mark Drew (208) 454-7646.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 17th day of August, 2005.

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 010. DEFINITIONS.

**01. Commercial Wildlife Farm.** Any facility where the operator obtains or possesses ~~big game animals~~ or breeds ~~big game animals~~ wildlife to produce young for any commercial purpose. Such facilities require a license, ~~and/or~~ Additional permits may be required from the Idaho Department of Agriculture, United States Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS) where applicable. ~~(7-1-99)(5-23-05)T~~

**02. Private Wildlife Park.** Any facility where the operator obtains, possesses or, propagates ~~big game animals~~ wildlife for his own personal pleasure but not for any commercial purpose. Such facilities require a license. ~~(7-1-99)(5-23-05)T~~

**03. Wildlife.** As defined in Section 36-202, Idaho Code. (3-23-94)

**04. Bona Fide Pet Store.** A legitimate retail store with a set location and regular business hours. (7-1-99)

**05. Big Game Animal.** As classified in IDAPA 13.01.06, "Classification and Protection of Wildlife". (3-23-94)

**06. Agriculture or Domestic Fish.** Shall include only rainbow trout (all color phases), coho salmon and blue or channel catfish. (3-23-94)

**07. Agriculture or Domestic Animals.** Shall not include any species of wildlife as defined by Idaho Code 36-202. (3-23-94)

**08. Game Bird.** As defined by IDAPA 13.01.06, "Classification and Protection of Wildlife". (3-23-94)

**09. Commercial Wildlife Facility.** Any facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. A commercial wildlife farm is included in this definition. Such facilities require a facility license. (7-1-99)

**10. Not Permanently Located Within the State of Idaho.** A traveling circus, menagerie, or trained act of wild animals which shall not be located within the state of Idaho more

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than two (2) months out of any calendar year.

(7-1-99)

**11. Traveling Circus, Menagerie, or Trained Act of Wild Animals.** Any mobile display or exhibit of wildlife maintained for instructional, educational, entertainment, or other commercial purposes.

(7-1-99)

**12. Publicly Owned Zoo or Wildlife Exhibit.** Any facility owned by any municipal, county, state, or federal agency.

(7-1-99)

**13. Captive Wildlife Facility.** Any facility where the owner obtains or possess up to three (3) individual captive wildlife, except wolves and wolf hybrids, for his own pleasure but with no breeding or any commercial purpose. Such facilities require a license.

(5-23-05)T

**14. Commercial Wildlife Research Facility.** Any facility where the operator obtains, possesses, or propagates wildlife for commercial research purposes. Such facilities require a license.

(5-23-05)T

## **(BREAK IN CONTINUITY OF SECTIONS)**

### **101. IMPORT PROCEDURE.**

**01. Importation of Live Wildlife.** Persons wishing to import any live wildlife, except those species exempt by Section 100 of this rule, into Idaho must obtain a license from the Idaho Fish and Game Department and must comply with the following requirements prior to importation.

(7-1-99)

**02. Obtain an Import Permit.** Obtain a Wildlife Importation Permit from the Bureau of Wildlife, Idaho Department of Fish and Game covering each animal or group of animals from the same source. ~~An~~ An Import Permit ~~when~~ may also be required from the Division of Animal Industries, Idaho Department of Agriculture, Boise, Idaho covering each animal or group of animals from the same source.

~~(7-1-99)~~(5-23-05)T

**03. Possession of Valid License.** Possess a valid, appropriate commercial wildlife facility license or possession permit from the Department of Fish and Game for all species of wildlife they possess ~~classified as big game animals~~.

~~(7-1-99)~~(5-23-05)T

**04. Inspection and Examination Requirements.** Obtain an examination of each animal by a licensed veterinarian, and a valid Certificate of Veterinary Inspection on animal(s). For fish, obtain (a) Certificate of Veterinary Inspection by a licensed veterinarian, or (b) CFR Title 50 certification, or (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases, parasites and genetic characteristics of concern and the testing/certification procedures and



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statements necessary to prevent introduction of diseases, parasites and genetically-related problems into the state of Idaho. Such testing and certification shall be implemented by the Division of Animal Industries of the Department of Agriculture and verified by the approved Certificate for the imported animal(s). Copies of the approved certificate must be sent to the Idaho Department of Fish and Game veterinarian by the importer within ten (10) days prior to arrival into Idaho. (7-1-99)

**05. Wildlife in Transit.** All required licenses and certificates must accompany said wildlife while in transit. (7-1-99)

**06. Issuance of Licenses.** Licenses will not be issued after the fact for wildlife imported without necessary health certificates. (7-1-99)

**07. Permits, Licenses, and Invoices Required.** (7-1-99)

**a.** Each facility must have appropriate licenses. License application forms are available from the Idaho Department of Fish and Game. (7-1-99)

**b.** Animals may only be imported or possessed after a license is issued. (7-1-99)

**c.** In addition to any criminal penalties assessed by a court, licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or rules promulgated pursuant thereto. (7-1-99)

**102. -- 199. (RESERVED).**

**200. NON-COMMERCIAL POSSESSION AND CONFINEMENT OF WILDLIFE REQUIREMENTS FOR CAPTIVE WILDLIFE FACILITIES, PRIVATE WILDLIFE PARKS AND COMMERCIAL WILDLIFE FARMS.**

**01. General.** No person shall possess, hold in captivity, or propagate any ~~big-game animals~~ wildlife without obtaining the proper permit from the Idaho Department of Fish and Game. All licensees shall comply with the following rules. (~~7-1-99~~)(5-23-05)T

**02. Compliance With City and County Ordinances and Federal Law.** No person shall possess, hold in captivity, or propagate any ~~big-game animals~~ wildlife without obtaining certification from the relevant city or county zoning and planning commissions that such facility is in compliance with all county ordinances. In addition, all such persons must obtain certification from the U.S. Department of Agriculture that they are in compliance with federal laws. (~~7-1-99~~)(5-23-05)T

**03. Marking ~~Big-Game~~ Wildlife.** All ~~big-game animals~~ wildlife shall be uniquely marked with U.S. Department of Agriculture official, valid ear tags or other Department of Fish and Game approved marking system. (~~3-23-94~~)(5-23-05)T

**04. Wildlife in Transit.** All required licenses and certificates must accompany said wildlife while in transit. (7-1-99)

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**05. Issuance of Licenses.** Licenses will not be issued after the fact for wildlife imported without necessary licenses and health certificates. (7-1-99)

**06. License Required.** (7-1-99)

**a.** Each facility must have an appropriate license. Licenses are available from Idaho Department of Fish and Game. (7-1-99)

**b.** In addition to any criminal penalties assessed by a court, permits and licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or regulations promulgated pursuant thereto. (3-23-94)

**07. Applications.** Application for licenses shall be on a form prescribed by the Department of Fish and Game. A separate application shall be made for each facility. (7-1-99)

**08. Inspections.** The licensee or anyone holding wildlife in captivity shall make available for inspection all records, all wildlife, and the facilities where the wildlife are kept at any reasonable time upon request of the Idaho Department of Fish and Game. (7-1-99)

**09. Records Requirements.** Records of all captive wildlife shall be kept current and up to date and made available as specified in Section 36-709(c) Idaho Code. (3-23-94)

**10. Cages or Enclosures.** (7-1-93)

**a.** It shall be required of each owner of ~~big game animals~~ wildlife to pen such animals in suitable pens and restrain them for inspection at any reasonable time when requested to do so by the Director or his representative. ~~(3-23-94)~~(5-23-05)T

**b.** ~~Big game animals, including b~~Bear and mountain lion shall be confined in enclosures that meet the following minimum requirements: ~~(7-1-99)~~(5-23-05)T

**i.** Has a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; (7-1-93)

**ii.** Has a chain link fence of at least eight (8) feet in height; (3-23-94)

**iii.** Has a chainlink cage top, or has any other Department approved configuration such as a pit that will preclude escape. (3-23-94)

**iv.** Cages, fencing and guard rails shall be kept in good repair at all times and gates or doors shall be securely fastened and locked. (3-23-94)

**c.** All such cages and/or enclosures for ~~big game animals~~ wildlife shall be of sufficient size to give the animal confined ample space for exercise and to avoid being overcrowded. ~~(3-23-94)~~(5-23-05)T

**i.** The length of the cage or enclosure shall be a minimum of four (4) times the body

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length (tip of nose to base of tail) of the animal being kept. (3-23-94)

- ii. The width shall be at least three-fourths (3/4) of the minimum cage length. (3-23-94)

iii. For the second animal housed in cage, floor space shall be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space shall be increased fifteen percent (15%). Cages with tops shall be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions which might injure or impair the animal shall be allowed within the cages. (3-23-94)

d. A suitable shelter or shield shall be provided for ~~big game animals~~ wildlife for protection from inclement weather and from the sun. ~~(3-23-94)~~(5-23-05)T

e. Cages or enclosures for ~~big game animals~~ wildlife shall be kept in a clean and sanitary condition consistent with good animal husbandry. ~~(3-23-94)~~(5-23-05)T

f. All venomous reptiles in captivity shall be kept in a cage or in a safety glass enclosure sufficiently strong, and in the case of a cage, of small enough mesh to prevent the animal's escape and with double walls sufficient to prevent penetration of fangs to the outside. All cages and glass enclosures must be locked. (3-23-94)

## **11. Humane Treatment.** (7-1-93)

a. All native wildlife that may be legally taken from the wild and held in captivity under the provisions of Title 36, Idaho Code and these rules and all captive ~~big game animals~~ wildlife shall be handled in a humane manner and kept free from parasites, sickness or disease, and if they become infected, injured or unsightly shall be removed from public display by the permit holder. ~~(3-23-94)~~(5-23-05)T

b. Any ~~big game animal~~ wildlife afflicted with a disease shall immediately be given medical attention consistent with good animal husbandry. A complete record of illness, treatment and disposition must be maintained by the permit holder. (3-23-94)

c. A certificate from a licensed veterinarian shall be supplied to the Idaho Department of Fish and Game upon demand stating the physical condition or health of all ~~big game animals~~ wildlife confined under the permit. ~~(3-23-94)~~(5-23-05)T

d. Daily feeding schedules shall be maintained for all ~~big game animals~~ wildlife. Food must be adequate and varied and so far as possible consistent with food ordinarily eaten by such animals. ~~(3-23-94)~~(5-23-05)T

e. Fresh or running water for drinking purposes shall be available in cages or enclosures at all times and shall be kept clean and in a sanitary condition. (3-23-94)

f. Any animals with a propensity to fight or which are otherwise incompatible shall be kept segregated. (7-1-93)

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g. At no time shall any wildlife held in captivity be chained or otherwise tethered. Except raptors, see falconery rules. (3-23-94)

**12. Intrastate Movement.** Intrastate movement will be allowed for nonquarantined ~~big game animals~~ wildlife, from one licensed facility to another which possesses a license for that subspecies, provided that: ~~(3-23-94)~~(5-23-05)T

a. Such ~~big game animals~~ wildlife shall be individually identified by an accredited veterinarian on a Certificate of Veterinary Inspection that shall accompany the animal while in transit, and shall be marked with U. S. Department of Agriculture official, valid eartags or other Department of Fish and Game approved marking system. ~~(7-1-99)~~(5-23-05)T

b. A wildlife invoice and bill of sale, properly filled out and signed by the licensee or his agent shall accompany each such animal while being transported. (3-23-94)

i. The invoice shall state the name of the wildlife facility from which the animal is being transported and the facility it is being transported to, and shall state the date of disposition, the species and the number disposed of. (3-23-94)

ii. The invoice shall be in triplicate with one (1) copy being retained by the transferrer, one (1) copy delivered to the transferee with the animal and one (1) copy to be mailed to the Department of Fish and Game by the transferrer within ten (10) days of the date of disposition. (3-23-94)

c. An intrastate transport license is obtained from the Director or his designee. (7-1-99)

**13. Release of Wildlife Without a Permit.** Any wildlife, except fish, that is released without a permit or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Idaho Department of Fish and Game at the owner's expense. (3-23-94)

**14. Unpermitted Fish Species.** Any fish species unpermitted for import, possession, transport or release that is released by or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Department of Fish and Game at the owner's expense. (3-23-94)

**15. Diseases of Captive Wildlife.** The Director of the Department of Fish and Game and the Director of the Department of Agriculture (or their designees which should include the Wildlife Veterinarian and the Administrator of the Division of Animal Industries) shall mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the state of Idaho. Such mechanisms and procedures shall include but not be limited to examination, testing, quarantine and slaughter or destruction of individual animals and/or herds that are infected with or affected by diseases and/or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures shall be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. Such examinations, testing, quarantine and slaughter of animals or herds shall be conducted at the expense of the owner of said animals or herds.

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(3-23-94)

**201. -- 299. (RESERVED).**

## **300. RECOVERY, POSSESSION AND SALE OF WILDLIFE PARTS.**

### **01. Wildlife Legally Killed.**

(3-23-94)

**a.** The possession, sale and purchase of wildlife or parts of wildlife that have been legally killed is lawful except as provided below and as provided in Chapter 5, Title 36, Idaho Code. (3-23-94)

**i.** The edible flesh of wildlife classified as big game animals, upland game animals, game birds or migratory birds taken from the wild may not be purchased, bartered or sold. (3-23-94)

**ii.** The edible flesh of wildlife classified as game fish or crustacea that are taken from the wild may not be purchased, bartered or sold except as provided in Idaho Code Sections 36-501 and 36-801 through 36-805 and rules promulgated pursuant thereto. (3-23-94)

**b.** A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Idaho Department of Fish and Game within ten (10) days after such sale. (3-23-94)

**02. Animals Found Dead.** Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department of Fish and Game. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes shall not include any man-caused mortality. (7-1-98)

### **a. Horns of Bighorn Sheep.**

(7-1-93)

**i.** Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed but may not be sold, bartered or purchased and may not be transferred to another person without a permit issued by the Director. All such pickup horns must be presented to an Idaho Department of Fish and Game regional or subregional office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. The insertion of a pin does not in itself certify that the animal was legally taken or possessed. The pin only identifies the horn(s) and indicates that mandatory check and report requirements were complied with. (3-23-94)

**ii.** No person shall alter, deface or remove a pin placed in a bighorn sheep horn by the Idaho Department of Fish and Game. No person shall possess the horn(s) of a bighorn sheep that bears an altered, defaced or counterfeit Idaho pin or from which the Idaho pin has been removed. (3-23-94)

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**b.** Antlers and horns of deer, elk, moose, pronghorn antelope and mountain goat, ~~and~~ parts of bear and mountain lion, and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold. ~~(3-23-94)~~(5-23-05)T

**c.** Antlers of deer, elk and moose that have been naturally shed in Idaho may be recovered, possessed, purchased or sold year around, EXCEPT in units 60, 60A, 66, 66A, 67, 68, 68A, 69, 70, 71, 72, 73, 73A, 74, 75, 76, 77 and 78 antlers may be picked up in the field only from May 1 through December 31. (7-1-99)

**03. Wildlife Taken in Other States.** Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such sale is not prohibited in Idaho or the state, province or country where taken, or by federal law or regulation; (3-23-94)

**301. -- 399. (RESERVED).**

**400. COMMERCIAL WILDLIFE FACILITIES.**

**01. General.** No person shall operate or maintain a commercial wildlife facility without obtaining the proper facility licenses from the Idaho Department of Fish and Game. All permittees and licensees shall comply with the following rules. (7-1-99)

**02. Compliance With City and County Ordinances and Federal Law.** No person shall maintain a wildlife facility without first obtaining certification from the relevant city or county zoning and planning commissions that such establishment is in compliance with all existing county ordinances. In addition, all such persons must obtain certification from the U.S. Department of Agriculture that they are in compliance with federal laws. (7-1-99)

**03. Licenses.** (7-1-99)

**a.** Each facility must have an appropriate facility license. Licenses are available from Idaho Department of Fish and Game. Cost of the license shall be determined in Section 36-703(a)(6), Idaho Code. (7-1-99)

**b.** Licenses shall be displayed at the licensed facility in plain view at all times. (7-1-99)

**c.** Licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or rules promulgated pursuant thereto or for violating any license or permit conditions. In case of revocation, all animals shall be removed by owner or by the Idaho Department of Fish and Game at owner's expense. (7-1-99)

**d.** Permits and licenses may be revoked by the Director of the Idaho Fish and Game Department for failure to comply with Chapter 7, Title 36, Idaho Code or rules promulgated pursuant thereto. (7-1-93)

**e.** Persons in violation of Chapter 7 of Title 36, Idaho Code and/or these rules shall be notified in writing and shall have ten (10) days to correct the violation. If at the end of that time the violation is not corrected, the Director may revoke any existing permit or license and may

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refuse to issue any future permit. Such revocation or refusal to issue a future permit shall be in addition to any criminal charges that may be filed. (7-1-93)

**04. Applications.** Application for permits or licenses to import and/or possess wildlife shall be on a form prescribed by the Department of Fish and Game. A separate application shall be made for each facility and for any animal(s) imported after a facility is licensed. The application shall include: (7-1-99)

- a.** The name and address of the applicant. (7-1-93)
- b.** Proof of compliance with existing city/county zoning and/or ordinance. (7-1-99)
- c.** The name and address of the owner(s) of the wildlife if not the applicant. (7-1-93)
- d.** The location of the proposed facility, including a legal description of the land and the approximate space devoted to the facility. (7-1-93)
- e.** The name and address of the owner of the property if not the applicant. (7-1-93)
- f.** The number and kinds of wildlife being or to be kept. (7-1-93)
- g.** The date upon which each animal is to be obtained. (7-1-99)
- h.** The source, including address and telephone number, from which each animal was, or is to be, obtained, and health certificate for all animals (see Rule 101) addressing diseases of concern. If already in possession, the type of permit or license under which each animal is possessed. (7-1-99)
- i.** Specifications of pens and shelters furnished for each kind of animal. (7-1-93)
- j.** Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. (7-1-99)

**05. Inspections.** The licensee shall make available for inspection all records, all wildlife, and the facilities covered by the license at any reasonable time upon request of the Idaho Department of Fish and Game. (7-1-99)

**06. Evidence of Legal Possession.** Records shall include evidence of legal possession of all wildlife kept at the facility or under the licenses, including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. The records shall also identify all animals born at the facility, exported from the facility, or transported within the state. (7-1-99)

**07. Dead Wildlife.** Record of inspection by a licensed veterinarian shall be kept for all wildlife which die on the premises, and a copy shall be forwarded to the Department of Fish and Game Wildlife Laboratory within ten (10) days of the death of the animal. (7-1-99)

**08. Cages or Enclosures.** (7-1-93)

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**a.** All wildlife held in captivity in a wildlife facility shall be confined at all times in cages or pens of such structure or type of construction that it will be impossible for such animals to escape. (7-1-93)

**b.** ~~Big game animals, including b~~Bear and mountain lion, shall be confined in enclosures that meet the following minimum requirements: ~~(7-1-99)~~(5-23-05)T

**i.** Has a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; (7-1-93)

**ii.** Has a chain link fence of at least eight (8) feet in height with barbed wire overhang; (7-1-93)

**iii.** Has a cage top; (7-1-93)

**iv.** Has any other configuration such as a pit that will preclude escape. (7-1-93)

**c.** All such cages and/or enclosures shall be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. (7-1-93)

**i.** The length of the cage or enclosure shall be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. (7-1-93)

**ii.** The width shall be at least three-fourths (3/4) of the cage length. (7-1-93)

**iii.** For the second animal housed in cage, floor space shall be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space shall be increased fifteen percent (15%). Cages with tops shall be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions which might injure or impair the animal shall be allowed within the cages. (7-1-93)

**d.** All cages or enclosures shall be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails shall be kept in good repair at all times; and gates shall be securely fastened with latches or locks. (7-1-99)

**e.** Each cage or enclosure for birds and smaller animals shall be provided with a den, nest box or other suitable housing containing adequate bedding material as may be required for the comfort of the species held. A suitable shelter or shield shall be provided for larger animals for protection from inclement weather and from the sun. At least one (1) wall of the enclosure shall be constructed so as to provide a windbreak for the animal confined. (7-1-93)

**f.** Cages or enclosures shall be kept dry if containing terrestrial animals and with adequate water if containing aquatic animals. Where natural climate of the species being held differs from the climate of the area where the wildlife facility is located, provisions shall be made to adjust holding conditions, as nearly as possible, to natural habitat. (7-1-93)



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**g.** Cages or enclosures shall be kept free of offensive odors and/or other unhealthy conditions. All cages or enclosures shall be properly disinfected and cleaned at least once each day. (7-1-93)

**09. Large Commercial Wildlife Facilities.** Commercial wildlife facilities which are of a size large enough or with a large number of animals which are incompatible with the cage or enclosure requirements of Subsection 400.07 may, in the director's discretion, be addressed on a case-by-case basis. It is intended that such facilities would house three (3) or more species or encompass display or exhibit areas larger than one (1) acre to qualify for consideration. (7-1-99)

**a.** Animals that are exhibited will be displayed in such a way as to preserve their dignity and in a natural appearing environment. The displays should enhance appreciation for the species and its natural history. ~~(7-1-99)~~(5-23-05)T

**b.** The cages and/or enclosures shall be of such structure or type of construction to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease. (7-1-99)

**c.** Applications for a commercial wildlife facility license shall generally meet the requirements of Subsection 400.04. Additionally, the application shall identify the veterinarian of record for the facility. (7-1-99)

**d.** The department will refer to the standards such as those set by the American Zoological Association or the United States Department of Agriculture, Animal and Plant Health Inspection Service Animal Care to develop cage, open space, shelter, and enclosure requirements. Such requirements may include, but not limited to, fence specifications, electric fence specifications, pits or moats, or buried fencing. ~~(7-1-99)~~(5-23-05)T

**e.** All applications shall be accompanied by a bond to the state of Idaho, Department of Fish and Game in the amount of fifty thousand dollars (\$50,000) or an amount equal to ten percent (10%) of the total facility construction cost plus two thousand dollars (\$2,000) per animal, which ever is greater, executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for clean-up of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. (7-1-99)

**f.** The specific requirements shall be set forth as license conditions. Violation of a license condition shall be a violation of these rules. (7-1-99)

**10. Humane Treatment.** (7-1-93)

**a.** All wildlife being held in captivity under the provisions of Title 36, Idaho Code and these rules shall be handled in a humane manner and kept free from parasites, sickness or disease, and if they become infected, injured or unsightly shall be removed from public display by the permit holder. (7-1-93)

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b. Any animal afflicted with parasites or disease shall immediately be given professional medical attention or be destroyed in a humane manner. A complete record of illness, treatment and disposition must be maintained by the permit holder. (7-1-93)

c. A certificate from a licensed veterinarian shall be supplied to the Idaho Department of Fish and Game at least once each year or upon demand stating the physical condition or health of animals confined under the permit. Certificates shall be upon forms furnished by the Department. (7-1-93)

d. Regular feeding schedules shall be maintained for all animals. Food must be adequate and varied and so far as possible consistent with food ordinarily eaten by such animals. Food must be of good quality and stores of same shall be kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. (7-1-99)

i. Food must be of good quality and stores of same shall be kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. (7-1-93)

ii. The public shall not be permitted to feed any animals ~~other than monkeys~~. Proper signs shall be conspicuously posted on cages or enclosures advising the public to refrain from feeding or annoying the birds or animals. ~~(7-1-93)~~(5-23-05)T

e. Fresh or running water for drinking purposes shall be available in cages or enclosures at all times. Drinking fountains or other receptacles shall be available in cages or enclosures at all times and shall be kept clean and in a sanitary condition. (7-1-93)

f. Any animals with a propensity to fight or which are otherwise incompatible shall be kept segregated. (7-1-93)

g. At no time shall any wildlife held for public display or exhibition be chained or otherwise tethered to any stake, post, tree, building, or other anchorage. (7-1-93)

#### 11. Sale of Animal Meat or Parts. (7-1-99)

a. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or by-products of a properly identified ~~big game animal~~ wildlife taken from a commercial wildlife facility only upon preparing an invoice or bill of sale as specified by the Idaho Department of Fish and Game and attaching a copy of it to the lot shipment, carcass, or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or by-products of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ~~(7-1-99)~~(5-23-05)T

b. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and Idaho Department of Agriculture regulations. (7-1-99)

12. **Responsibility of License Holder.** The license holder shall be responsible for the care of the wildlife in possession and the protection of the public. The license holder shall be

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liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department is concerned only with the protection of wildlife and makes no representation concerning public safety of the licensed animals or facilities. (7-1-99)

**13. Commercial Wildlife Research Facilities.** Commercial wildlife research facilities are facilities in which wildlife are used for commercial research purposes and will be addressed on a case-by-case basis. It is intended that such facilities would house wildlife for research purposes that benefit wildlife or human health and comply with USDA research facility requirements. (5-23-05)T

**a.** Animals will be housed in such a way as to preserve their dignity and in compliance with USDA research facility requirements. (5-23-05)T

**b.** The cages and/or enclosures shall be of such structure or type of construction to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease and to prevent the egress of native wildlife. (5-23-05)T

**c.** Applications for a commercial wildlife research facility license shall generally meet the requirements of Subsection 400.04. Additionally, the application shall identify the veterinarian of record for the facility. (5-23-05)T

**d.** The Department will refer to the standards such as those set by the American Zoological Association or USDA to develop cage, open space, shelter, and enclosure requirements. Such requirements may include, but are not limited to, fence specifications, electric fence specifications, pits or moats, or buried fencing. (5-23-05)T

**e.** All applications shall be accompanied by a bond to the state of Idaho, Department of Fish and Game in the amount of fifty thousand dollars (\$50,000) or an amount equal to ten percent (10%) of the total facility construction cost, which ever is greater, executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for clean-up of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. (5-23-05)T

**f.** The specific requirements shall be set forth as license conditions. Violation of a license condition shall be a violation of these rules. (5-23-05)T

**14. Captive Wildlife Facility.** Captive Wildlife Facilities are facilities in which small numbers, up to three (3) individual animals, may be possessed by a private person, but with no breeding or commercial use allowed. Captive Wildlife Facilities must comply with the appropriate sections of these rules concerning importation, possession, housing and other requirements. (5-23-05)T

**401. -- 499. (RESERVED).**

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PENDING RULE

## 500. SHOOTING PRESERVE RULES.

**01. Shooting Preserves.** Shooting preserves in the state of Idaho may be operated only under a permit from the Director of the Department of Fish and Game. (7-1-93)

**02. Applications.** Application for a shooting preserve license shall be on a form prescribed by the Department of Fish and Game. (7-1-93)

**03. Licenses.** The operator of each shooting preserve shall execute and maintain a vendorship contract with the Department and shall maintain a supply of shooting preserve hunting licenses on hand for issuance to clients of the preserve. (7-1-93)

**04. Species Permitted.** Only those species of upland game birds approved by the Director or his designee as specified on the shooting preserve permit may be held and/or released on such shooting preserve facility. All birds released must be certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ~~(7-1-93)~~(5-23-05)T

**05. Disease Free Birds.** All upland game birds shipped into Idaho for release on an authorized shooting preserve shall be certified free from disease as evidenced by a statement to that effect executed in writing by a licensed veterinarian. (7-1-93)

**06. Holding Facilities.** All rearing pens, holding pens and other rearing or holding facilities shall be maintained in accordance with Subsection 400.01 et seq. (7-1-93)

**07. Habitat Requirements.** No shooting preserve permit shall be issued except upon verification by the Department that the proposed area has suitable habitat to provide food and cover for birds released for hunting purposes. The Department shall provide technical advice to the applicant in developing proper habitat needs for the various species permitted under the shooting preserve license. (7-1-93)

**08. Inspection.** The Director or his designee shall be allowed reasonable access to the premises of any authorized shooting preserve for the purpose of inspecting rearing and holding facilities for upland game birds and to inspect licenses, hunters' bag limits, storage facilities and records pertaining to the operation of said shooting preserve. (7-1-93)

**09. Marking.** In addition to the methods set by Section 36-2205(c), Idaho Code, artificially propagated upland game birds released on a shooting preserve may be marked by a nasal scar, a permanent deformity caused by a blinder or device that partially obstructs the bird's vision. (5-23-05)T

## (BREAK IN CONTINUITY OF SECTIONS)

## 700. LIST OF SPECIES APPROVED FOR IMPORTATION INTO IDAHO.

The following species are generally approved to be possessed, imported into or transported, sold, bartered or traded within Idaho. (7-1-99)

# RESOURCE & CONSERVATION

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## DEPARTMENT OF FISH AND GAME

### Importation, Possession, Release, Sale or Salvage of Wildlife

Docket No. 13-0110-0501

PENDING RULE

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**01. Approved License Required.** No person shall import any species of live wildlife without a license approved by the director or his designee. (7-1-99)

**02. Species Allowed For Importation.** The following species have been approved for importation into Idaho by private citizens for purposes consistent with these rules (a license is still required): ~~(7-1-99)~~(5-23-05)T

- ~~a.~~ *Rocky Mountain Elk. Cervus elaphus canadensis.* (7-1-93)
- ~~b.~~ *Roosevelt Elk. Cervus elaphus roosevelti.* (7-1-93)
- ~~c.~~ *Manitoba Elk. Cervus elaphus manitobensis.* (7-1-93)
- ~~d.~~ *Reindeer/Caribou. Rangifer tarandus spp. Only allowed south of the Salmon River.* (7-1-93)
- ~~e.~~ *Rocky Mountain Mule Deer. Odocoileus hemionus hemionus.* (7-1-93)
- fa. Pronghorn/Antelope. Antilocapra americana americana. (7-1-93)
- ~~g.~~ *Bison/Buffalo. Bison bison.* (7-1-93)
- ~~h.~~ *Fallow Deer. Dama dama spp.* (7-1-93)
- ib. Muntjac Deer. Muntiacus muntjak spp. (7-1-93)
- ~~j.~~ *Wild Turkey (Merriams, Rio Grande And Eastern). Melagris gallapavo spp.* (7-1-93)
- ~~kc.~~ Pheasants. All species. (7-1-93)
- ld. Columbian Sharp-Tailed Grouse. Pedioecetes phasianellus. (7-1-93)
- ~~me.~~ Gray/Hungarian Partridge. Perdix perdix. (7-1-93)
- ~~nf.~~ Chukar Partridge. Alectoris graeca. (7-1-93)
- ~~og.~~ Blue Grouse. Dendrogapus obscurus. (7-1-93)
- ~~ph.~~ Spruce Grouse. Canochites canadensis. (7-1-93)
- ~~qi.~~ Ruffed Grouse. Bonasa umbellus. (7-1-93)
- ri. Wild Quail (Northern Bobwhite, California, Mountain And Gambel's). Colinus virginianus, Callipepla californica, Oreortyx pictus and Callipepla gambelii. (7-1-93)

**03. Fur Farms, Fish Farms, Domestice Cervidae, and Bona Fide Pet Stores.** Fur

## RESOURCE & CONSERVATION

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**DEPARTMENT OF FISH AND GAME**

**Docket No. 13-0110-0501**

**Importation, Possession, Release, Sale or Salvage of Wildlife**

**PENDING RULE**

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farms, fish farms, domestic cervidae, and bona fide pet stores are regulated by the Idaho Department of Agriculture. ~~However, a license to import those animals into the state shall be obtained from the Idaho Department of Fish and Game prior to importation. (7-1-99)(5-23-05)T~~

**04. All Other Species.** All species of live wildlife not listed above for importation will be considered on a case-by-case basis. Application shall be made on a department-prepared form and comply with the procedures of Section 101 of these rules. The decision on whether import and possession will be allowed shall be in the director's discretion, based on the protection of Idaho's wildlife from habitat degradation, genetic contamination, competition, or disease.

(7-1-99)

# ***RESOURCE & CONSERVATION***

## **IDAPA 13 - DEPARTMENT OF FISH AND GAME**

### **13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS**

**DOCKET NO. 13-0117-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**Allow bear baiting one week prior to the opening of bear season in several wilderness areas; including Units 17, 19, 20, 20A, 26 and 27. This will encourage bear hunting in these backcountry areas and was requested by several hunters and outfitters. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 182 and 183.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Unsworth (208) 287-2738.

DATED this 27th day of October, 2005.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

***The Following Notice Was Published With The Temporary And Proposed Rule***

# **RESOURCE & CONSERVATION**

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**DEPARTMENT OF FISH AND GAME**  
**Use of Bait for Taking Big Game Animals**

**Docket No. 13-0117-0501**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is April 4, 2005.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Allow bear baiting one week prior to the opening of bear season in several wilderness areas; including Units 17, 19, 20, 20A, 26 and 27. This will encourage bear hunting in these backcountry areas and was requested by several hunters and outfitters.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The temporary rule confers a benefit to hunters and outfitters.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons without interruption and to publish the Big Game Hunting Seasons Proclamation Brochure.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jim Unsworth (208) 287-2738.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.



# **RESOURCE & CONSERVATION**

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**DEPARTMENT OF FISH AND GAME**  
**Use of Bait for Taking Big Game Animals**

**Docket No. 13-0117-0501**  
**PENDING RULE**

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DATED this 17th day of August, 2005.

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **100. Use Of Bait.**

Bait is defined as any substance placed to attract big game animals, except liquid scent for deer and elk. Bait may be used to hunt ONLY black bear and ONLY under the following conditions. (7-9-93)

#### **01. Time. (7-1-93)**

**a.** No bait may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT in that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486, and bait may be placed one (1) week prior to the opening of bear season in Units 17, 19, 20, 20A, 26 and 27. (~~3-15-02~~)(4-4-05)T

**b.** All bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of the spring and fall black bear seasons. (3-20-97)

#### **02. Location. (7-1-93)**

**a.** No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream), or within two hundred (200) yards from any maintained trail or any road. (3-30-01)

**b.** No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. (7-1-93)

#### **03. Types. (7-1-93)**

**a.** No parts of or whole game animals, game birds, or game fish may be used as bait. (7-1-93)

**b.** The skin must be removed from any mammal parts or carcasses used as bait. (7-1-93)

#### **04. Containers. (7-1-93)**

**a.** No bait may be contained within paper, plastic, glass, metal, wood or other nonbiodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. (7-1-93)

**b.** No bait may be contained in any excavated hole greater than four (4) feet in

## ***RESOURCE & CONSERVATION***

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***DEPARTMENT OF FISH AND GAME  
Use of Bait for Taking Big Game Animals***

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PENDING RULE***

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diameter. (7-1-93)

**05. Establishment of Bait Sites.** (7-1-93)

**a.** Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days of the close of the spring and fall black bear seasons. (3-20-97)

**b.** All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. (7-1-93)

# ***RESOURCE & CONSERVATION***

## **IDAPA 20 - DEPARTMENT OF LANDS**

### **20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT**

**DOCKET NO. 20-0201-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 58-104, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rules are being made upon the recommendation of the Idaho Forest Practices Act Advisory Committee and public comments received during public hearings and the public comment period. The public comments received were supportive of the proposed rules and contained no substantive changes. They did recommend some edits to help clarify the rules. The Idaho Forest Practices Act Advisory Committee incorporated those recommendations to help clarify rule intent.**

**The pending rule changes are based upon the 2000 and 2004 Forest Practices Interagency Audit findings. Changes include: amending the stream protection rules pertaining to shade, large organic debris and slash removal from streams; clarifying the rules pertaining to stream crossings; and reuse of existing roads within stream protection zones. New language within the rule is proposed for prescribed burning within stream protection zones.**

**Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 190 through 205.**

**FISCAL IMPACT:** There is no impact to the State general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Craig Foss, Chief - Bureau of Forestry Assistance at (208)

# ***RESOURCE & CONSERVATION***

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**DEPARTMENT OF LANDS**  
**Rules Pertaining to the Idaho Forest Practices Act**

**Docket No. 20-0201-0501**  
**PENDING RULE**

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769-1525.

DATED this 15th day of November, 2005.

Winston A Wiggins  
Director  
Idaho Department of Lands  
954 W. Jefferson Street  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone (208) 334-0200/ Fax (208) 334-2339

## ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 58-104, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Monday September 19, 2005**  
**7:00 p.m.**  
**Lodge at River's Edge,**  
**615 Main,**  
**Orofino, ID**

**Tuesday September 20, 2005**  
**7:00 p.m.**  
**Idaho Department of Lands,**  
**555 Deinhard Lane,**  
**McCall, ID**

**Wednesday September 21, 2005**  
**7:00 p.m.**  
**Idaho Department of Lands,**  
**3780 Industrial Avenue S,**  
**Coeur d'Alene, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**These changes are being made upon the recommendation of the Idaho Forest Practices Act Advisory Committee, based upon the 2002 Forest Practices Interagency Audit Report. The changes include: amending the stream protection rules pertaining to shade, large organic debris and slash removal from streams; clarifying the rules pertaining to stream crossings; and reuse of existing roads within stream protection zones. New language within the rule is proposed for prescribed burning within stream protection zones.**

**FEE SUMMARY:** No fee or charge is to be imposed or increased.

**FISCAL IMPACT:** There is no impact to the State general fund.

# RESOURCE & CONSERVATION

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## DEPARTMENT OF LANDS Rules Pertaining to the Idaho Forest Practices Act

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Docket No. 20-0201-0501  
PENDING RULE

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Forest Practices Act Advisory Committee (FPAAC) has been discussing the proposed rule changes for the past three years. The FPAAC consists of forest landowners and operators, private citizens and agency representatives that have already sought input from their constituent organizations are the interest groups that will be directly affected by the proposed rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Craig Foss, Chief – Bureau of Forestry Assistance at (208) 769-1525.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 3rd day of August, 2005.

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-0501

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited as IDAPA 20.02.01, “Rules Pertaining to the Idaho Forest Practices Act”. ( )

**02. Scope.** These rules constitute the minimum standards for the conduct of forest practices on forest land and describe administrative procedures necessary to implement those standards. (7-1-96)( )

#### 002. WRITTEN INTERPRETATIONS.

~~The board does not rely on any written interpretive statements concerning these rules. Pursuant to Idaho Code Section 67-5201(19)(b)(iv), the Department maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and informal opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals are available for public inspection and copying at the Idaho Department of Lands, 954 West Jefferson Street, Boise, Idaho 83702.~~ (7-1-96)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 004. INCORPORATION BY REFERENCE.

There are no documents incorporated herein by reference. ( )

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## DEPARTMENT OF LANDS Rules Pertaining to the Idaho Forest Practices Act

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### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Idaho Department of Lands is the Director's Office at 954 W. Jefferson, Boise, Idaho 83720 and is open from 8 a.m. to 5 p.m. (MST), except Saturday, Sunday and legal holidays. The mailing address is Idaho Department of Lands, PO Box 83720, Boise, Idaho 83720-0050. The telephone of the office is (208) 334-0200. ( )

### **006. PUBLIC RECORDS ACT COMPLIANCE.**

All records relating to this chapter are public records except to the extent such records are by law exempt from disclosure. ( )

### **~~004~~007. -- 009.(RESERVED).**

### **010. DEFINITIONS.**

Unless otherwise required by context as used in these rules: (10-14-75)

**01. Act.** The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (7-1-96)

**02 Acceptable Tree Species.** Any of the tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. (7-1-96)

**03. Additional Hazard.** The debris, slashings, and forest fuel resulting from a forest practice. (10-14-75)

**04. Average DBH.** Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. All trees to be cut that do not have a measurable DBH will fall in the one inch (1") class. (7-1-96)

**05. Best Management Practice (BMP).** A practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. BMPs shall include, but not be limited to, those management practices included in these rules. (9-11-90)

**06. Board.** The Idaho State Board of Land Commissioners or its designee. (10-14-75)

**07. Buffer Strip.** A protective area adjacent to an area requiring special attention or protection. (10-14-75)

**08. Chemicals.** Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, as defined in the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code, fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment. (7-1-98)

**09. Clear Cut.** A harvest *method* where trees are removed and the residual stocking is below the minimum stocking levels of Subsection 050.04. ( )

**~~09~~10. Constructed Skid Trail.** A skid trail created by the deliberate cut and fill action of

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**DEPARTMENT OF LANDS**  
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a dozer or skidder blade resulting in a road-type configuration. (7-1-96)

**101. Commercial Products.** Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. (~~10-14-75~~)( )

**142. Condition of Adjoining Area.** Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of the adjoining area. (1-24-78)

**123. Contaminate.** To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare or to domestic, commercial, industrial, agricultureal or recreational uses or to livestock, wildlife, fish or other aquatic life. (~~10-14-75~~)( )

**134. Cross-Ditch.** A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion. (3-13-90)

**145. Cull.** Nonmerchantable, alive, standing trees of greater height than twenty (20) feet. (1-24-78)

**156. Department.** The Idaho Department of Lands. (10-14-75)

**167. Deterioration Rate.** Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. (1-24-78)

**178. Director.** The Director of the Idaho Department of Lands or his designee. (10-14-75)

**189. Emergency Forest Practice.** A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. (10-14-75)

**1920. Fertilizers.** Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. (10-14-75)

**201. Fire Trail.** Access routes that are located and constructed in a manner to be either useful in fire control efforts or deterring the fire spread in the hazard area. (10-14-75)

**242. Forest Land.** Federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked. It does not include land affirmatively converted to uses other than the growing of forest tree species. (7-1-96)

**223. Forest Practice.** (10-14-75)

**a.** The harvesting of forest tree species including felling, bucking, yarding, decking, loading and hauling; road construction, improvement or maintenance including installation or

# **RESOURCE & CONSERVATION**

improvement of bridges, culverts or structures which convey stream flows within the operating area; also including the clearing of forest land for conversion to non-forest use when harvest occurs; (7-1-98)

**b.** Road construction, reconstruction or maintenance of existing roads including installation or improvement of bridges, culverts or structures which convey streams not within the operating area associated with harvesting of forest tree species; (7-1-98)

**c.** Reforestation; (10-14-75)

**d.** Use of chemicals for the purpose of managing forest tree species or forest land; (7-1-98)

**e.** The management of slash resulting from harvest, management or improvement of forest tree species or the use of prescribed fire on forest land. (7-1-98)

**f.** “Forest Practice” shall not include preparatory work such as tree marking, surveying, and road flagging or removal or harvesting of incidental vegetation from forest lands; such as berries, ferns, greenery, mistletoe, herbs, mushrooms, or other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (10-14-75)

**234. Forest Regions.** Two (2) regions of forest land: one (1) being north of the Salmon River and one (1) being south of the Salmon River. (7-1-96)

**245. Fuel Quantity.** The diameter, the number of stems and the predominate species to be cut or already cut, and the size of the continuous thinning block all of which determine quantity of fuel per unit of area. (1-24-78)

**256. Ground Based Equipment.** Mobile equipment such as tractors, dozers, skidders and mechanized harvesters used for harvesting, site preparation or hazard reduction. This does not include cable systems associated with stationary yarding equipment. (7-1-96)

**267. Habitat Types.** Forest land capable of producing similar plant communities at climax. (7-1-96)

**278. Harvesting.** A commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use. (10-14-75)

**289. Hazard.** Any vegetative residue resulting from a forest practice which constitutes fuel. (1-24-78)

**2930. Hazard Offset.** Improvements or a combination of practices which reduces the spread of fire and increases the ability to control fires. (10-14-75)

**301. Hazard Points.** The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify conditions on the same area or to actions by the operator, timber owner or landowner to offset the hazardous conditions on the same area.



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(1-24-78)

**342. Hazard Reduction.** The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire after treatment. (10-14-75)

**323. Lake.** A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

**334. Landowner.** A person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest lands, including the state. (10-14-75)

**345. Large Organic Debris (LOD).** Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows. Pieces longer than the channel width or longer than twenty (20) feet are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. (3-13-90)

**356. Merchantable Material.** That portion of forest tree species suitable for the manufacture of commercial products which can be merchandised under normal market conditions. (10-14-75)

**367. Merchantable Stand of Timber.** A stand of trees that will yield logs or fiber: (7-1-96)

a. Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; (10-14-75)

b. Of sufficient value at least to cover all costs of harvest and transportation to available markets. (10-14-75)

**378. Noncommercial Forest Land.** Habitat types not capable of producing twenty (20) cubic feet per acre per year. (7-1-96)

**389. Operator.** A person who conducts or is required to conduct a forest practice. (10-14-75)

**3940. Operating Area.** That area where a forest practice is taking place or will take place. (1-24-78)

**401. Ordinary High Water Mark.** That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. (10-14-75)

**442. Outstanding Resource Water.** A high quality water, such as water of national and

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**Rules Pertaining to the Idaho Forest Practices Act****Docket No. 20-0201-0501**  
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state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, that may lower water quality. (7-1-96)

**423. Partial Cutting.** The well distributed removal of a portion of the merchantable volume in a stand of timber. This includes seed tree, shelterwood, or individual tree selection harvesting techniques. (10-14-75)

**434. Prescribed Fire.** The controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel moisture and soil moisture, to allow the fire to be confined to a predetermined area and at the same time to produce the intensity of heat and rate of spread required to meet planned objectives. (7-1-96)

**445. Present Condition of Area.** The amount or degree of hazard present before a thinning operation commences. (1-24-78)

**456. Public Resource.** Water, fish, and wildlife, and in addition means capital improvements of the State or its political subdivisions. (10-14-75)

**467. Reforestation.** The establishment of an adequately stocked stand of trees of species acceptable to the department to replace the ones removed by a harvesting or a catastrophic event on commercial forest land. (10-14-75)

**478. Relief Culvert.** A structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity. (10-14-75)

**489. Rules.** Rules adopted by the Board pursuant to Section 38-1304, Idaho Code. (7-1-96)

**4950. Slash.** Any vegetative residue three inches (3") and under in diameter resulting from a forest practice or the clearing of land. (7-1-96)

**501. Site.** An area considered as to its ecological factors with reference to capacity to produce forest vegetation; the combination of biotic, climatic, and soil conditions of an area. (10-14-75)

**512. Site Factor.** A combination of percent of average ground slope and predominate aspect of the forest practice area which relate to rate of fire spread. (1-24-78)

**523. Site Specific Best Management Practice.** A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs, and which has been approved by the Department, or by the Board in consultation with the Department and the Forest Practices Advisory Committee. (7-1-96)

**534. Size of Thinning Block.** Acres of continuous fuel creating an additional hazard within a forest practice area. Distance between the perimeter of thinning blocks containing

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continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block.  
(1-24-78)

**545. Snags.** Dead, standing trees twenty (20) feet and greater in height. (1-24-78)

**556. Soil Erosion.** Movement of soils resulting from forest practices. (10-14-75)

**567. Soil Stabilization.** The minimizing of soil movement. (10-14-75)

**578. State.** The state of Idaho or other political subdivision thereof. (10-14-75)

**589. Stream.** A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

**a.** Class I streams are used for domestic water supply or are important for the spawning, rearing or migration of fish. Such waters shall be considered to be Class I upstream from the point of domestic diversion for a minimum of one thousand three hundred and twenty (1,320) feet. (11-7-86)

**b.** Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred and forty (240) acres in the north forest region and four hundred and sixty (460) acres in the south forest region. Their principle value lies in their influence on water quality or quantity downstream in Class I streams. (7-1-96)

**c.** Class I Stream Protection Zone means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.) (7-1-96)

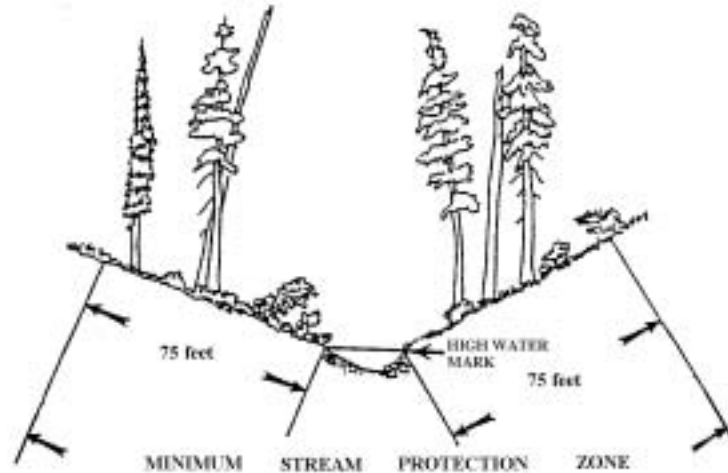
## FIGURE 1

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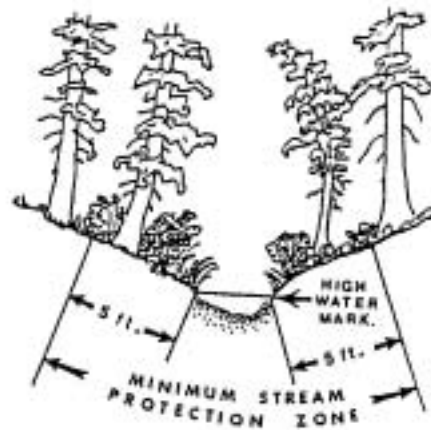
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## CLASS 1 STREAM PROTECTION ZONE



d. Class II Stream Protection Zone means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, provide soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment. In no case shall this width be less than five (5) feet slope distance on each side of the ordinary high water marks. (7-1-96)

FIGURE 2  
CLASS II STREAM PROTECTION ZONE



**5960. Timber Owner.** A person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land. (10-14-75)

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**601. Time of Year of Forest Practice.** Those combinations of months during which time the forest practice is taking place. Points assigned are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. (1-24-78)

## **(BREAK IN CONTINUITY OF SECTIONS)**

### **030. TIMBER HARVESTING.**

**01. Purpose.** Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

**02. Quality of Residual Stocking.** Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

**03. Soil Protection.** Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

**a.** Ground based skidding shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground based skidding shall not be conducted except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient the operator, landowner or timber owner shall notify the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. (7-1-96)

**b.** Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

**c.** In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

**d.** Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

**04. Location of Landings, Skid Trails, and Fire Trails.** Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

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**a.** All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

**b.** Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

**c.** To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

**05. Drainage Systems.** For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

**a.** Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsloping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

**b.** Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

**06. Treatment of Waste Materials.** All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

**a.** Wherever possible trees shall be felled, bucked, and limbed in such a manner that the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (3-13-90)

**b.** Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

**c.** Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

**07. Stream Protection.** During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

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a. Lakes require an approved site specific riparian management prescription prior to conducting forest practices within the stream protection zone. (7-1-96)

b. Ground based skidding in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (7-1-96)

c. Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

d. When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

e. Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

i. Leave hardwood trees, shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. (10-14-75)

ii. Leave seventy-five percent (75%) of the current shade over the Class I streams. Limit re-entry until shade recovers. (~~7-1-96~~)( )

iii. During harvesting, carefully remove timber from the Stream Protection Zone in such a way that large organic debris, shading and filtering effects are ~~not destroyed~~ maintained and protected. When portions of felled trees fall into or over a Class I stream, leave the portion consistent with the LOD definition of Subsection 010.35. (~~7-1-96~~)( )

iv. When harvesting portions of trees that have fallen naturally into or over a Class I stream, leave the portion(s) over the stream consistent with the LOD definition of Subsection 010.35. Leaving the section with the root ball attached is preferred. ( )

v. During harvesting operations, portions of felled or bucked trees not meeting the LOD definition shall be removed, consistent with the slash removal requirements of Subsection 030.06. ( )

vi. Standing trees, including conifers, hardwoods and snags will be left within fifty (50) feet of the ordinary high water mark on each side of all Class I streams, and within thirty (30) feet on each side of those Class II streams that require thirty (30) feet stream protection zones, in the following minimum numbers per one thousand (1000) feet of stream:

Minimum Standing Trees Per One Thousand (1000) Feet Required (each side)

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	-- STREAM WIDTH --			
	Class I			Class II*
Tree Diameter (DBH)	Over 20'	10'- 20'	Under 10'	
3 - 7.9"	200	200	200	140
8 - 11.9"	42	42	42	--
12 - 19.9"	21	21	--	--
20"+	4	--	--	--

\*For those Class II streams that require a minimum five (5) foot stream protection zone, no standing trees are required. (7-1-96)( )

vii. Snags will be counted as standing trees in each diameter class if snag height exceeds one and one-half (1 ½) times the distance between the snag and the stream's ordinary high water mark. Not more than fifty percent (50%) of any class may consist of snags. (7-1-96)

viii. ~~As an alternative to~~ To obtain a variance from the standing tree and shade requirements, the operator ~~may notify the department that~~ must develop a site specific riparian management prescription ~~is requested and submit it to the department for approval.~~ The ~~department and operator may jointly develop a plan upon consideration of~~ prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will ~~meet~~ achieve the objective of these rules. (3-13-90)( )

ix. Where the opposite side of the stream does not currently meet the minimum standing tree requirements of the table, the department and the operator should consider a site specific riparian prescription that meets the large organic debris needs of the stream. (3-13-90)

x. Stream width shall be measured as average between ordinary high water marks. (3-13-90)

f. Direct ignition of prescribed burns will be limited to hand piles within stream protection zones (SPZ), all other direct ignitions shall occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. ( )

i. Hand piles shall be at least five (5) feet from the ordinary high water-mark of streams. ( )

ii. No mechanical piling of slash or natural forest fuels is allowed in a SPZ (an exception is filter windrows for erosion control which shall not be ignited. ( )

**08. Maintenance of Productivity and Related Values.** Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas



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are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

**b.** Give special consideration to preserving any critical wildlife or aquatic habitat. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (10-14-75)

**c.** Avoid conducting operations along bogs, swamps, wet meadows, springs, seeps, wet draws or other sources where the presence of water is indicated, protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (7-1-96)

**d.** ~~Whenever practical, as determined by the department, plan~~ Clear cutting operations within a single ownership shall be planned so that adequate wildlife escape cover (e.g. topography, vegetation, stream protection zones, etc.) is available within one-quarter (1/4) mile. (10-14-75)( )

## (BREAK IN CONTINUITY OF SECTIONS)

### 040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.

**01. Purpose.** Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

**02. Road Specifications and Plans.** Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (4-5-00)

**a.** Plan transportation networks to avoid road construction within stream protection zones, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. (4-5-00)

**b.** Roads shall be no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill material. Dispose of excess material on geologically stable sites. (4-5-00)

**c.** Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. (4-5-00)

**d.** Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, cut slopes or fill slopes. Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan

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drainage structures to achieve minimum direct discharge of sediment into streams. (4-5-00)

e. The following rule applies to installations of new culverts and re-installations during road reconstructions or reinstallations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-5-00)

i. Culvert installations on fish bearing streams must provide for fish passage. (4-5-00)

ii. Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear River basin, where the minimum size shall be fifteen (15) inches. (7-1-96)

### CULVERT SIZING TABLE - I USE FOR NORTH IDAHO AND THE SALMON RIVER DRAINAGE

This culvert sizing table will be used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
less than 32	18	6
33 - 74	24	12
75 - 141	30	20
142 - 240	36	32
241 - 366	42	46
367 - 546	48	65
547 - 787	54	89
788 - 1027	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1028 - 1354	66	142
1355 - 1736	72	176

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Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1737 - 2731	84	260
2732 - 4111	96	370
4112 - 5830	108	500
5831 - 8256	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures. (4-21-92)

### CULVERT SIZING TABLE - II USE FOR SOUTH IDAHO

This culvert sizing table will be used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
less than 72	18#	6
73 - 150	24	12
151 - 270	30	20
271 - 460	36	32
461 - 720	42	46
721 - 1025	48	65
1026 - 1450	54	89
1451 - 1870	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

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Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

# See exception for southeast Idaho in Subsection 040.02.ii. of this rule. (4-5-00)

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws shall not be less than twelve (12) inches in diameter for permanent installations. (7-1-96)

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subsection 040.02.e.i. or cannot carry the fifty (50) year peak flow of Subsection 040.02.e.ii. ( )

fg. Stream crossings, including fords, shall be minimum in number and planned and installed in compliance with the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of Subsection 040.02.e. Fords are an acceptable stream crossing structure on small, shallow streams, with flat, less than four percent (4%) gradients. Fords should cross the stream at right angles. Approaches shall be adequately cross-drained and rocked for at least seventy-five (75) feet. During times of salmonid spawning and egg incubation or to protect active domestic water diversions, use shall be limited to low water, dry, or frozen conditions and hauling or equipment crossing trips limited to minimize sediment delivery to streams. (4-5-00)( )

gh. Avoid reconstruction ~~or reuse~~ of existing roads located in stream protection zones, except for approaches to stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction ~~or reuse~~ of existing roads in stream protection zones will require a variance. Reusing existing roads in stream protection zones for skidding or landing logs shall require a variance. Reusing existing roads in stream protection zones for hauling fully suspended logs only, where no reconstruction will occur, does not require a variance. (4-5-00)( )

**03. Road Construction.** Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams. (4-5-00)

a. Roads shall be constructed in compliance with the planning guidelines of Subsection 040.02. (7-1-96)

b. Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones. (4-5-00)

c. Where exposed material (road surface, cut slopes or fill slopes, borrow pits, waste piles, etc.) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (4-5-00)

d. In the construction of road fills, compact the material to reduce the entry of water,

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minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a filter windrow along the toe of the fill, but must meet the requirements of the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (4-5-00)

**e.** During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge except those intentionally constructed for protection of road grade fills. (8-13-85)

**f.** Provide for drainage of quarries to prevent sediment from entering streams. (8-13-85)

**g.** Construct cross drains and relief culverts to minimize erosion of embankments. Installation of erosion control devices should be concurrent with road construction. Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleated roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (4-5-00)

**h.** Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (4-5-00)

**i.** Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation. (4-5-00)

**j.** Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. (4-5-00)

**04. Road Maintenance.** Conduct regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

**a.** Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. (4-5-00)

**b.** Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. (4-5-00)

**c.** Active roads. An active road is a forest road being used for hauling forest products, rock and other road building materials. The following maintenance shall be conducted on such roads. (8-13-85)

**i.** Culverts and ditches shall be kept functional. (8-13-85)

**ii.** During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or cross-ditched, and berms removed from the outside edge except

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those intentionally constructed for protection of fills. (4-5-00)

iii. The road surface shall be maintained as necessary to minimize erosion of the subgrade and to provide proper drainage. (8-13-85)

iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. (4-5-00)

v. If road surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (4-5-00)

**d.** Incidental Haul Road. An incidental haul road is a multi-use road (residential traffic; its primary purpose is other than forest practices) that has log haul during active harvest activities. Active road maintenance requirements apply. Once active road maintenance is completed, no other maintenance is required under the Forest Practices Act (FPA). ( )

~~**de.**~~ Inactive roads. An inactive road is a forest road (primary purpose is for forest practices) no longer used for commercial hauling but maintained for access (e.g., for fire control, forest management activities, recreational use, and occasional or incidental use for minor forest products harvesting). The following maintenance shall be conducted on inactive roads. (8-13-85)( )

i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)

ii. The roads may be permanently or seasonally blocked to vehicular traffic. (8-13-85)

**ef.** Long-term Inactive Roads. A long-term inactive road is not intended to be used again in the near future but will likely be used again at some point in the future. No subsequent maintenance of a long-term inactive road is required after the following procedures are completed: (4-5-00)

i. The road is left in a condition suitable to control erosion by out-sloping, water barring, seeding, or other suitable methods. (8-13-85)

ii. The road is blocked to vehicular traffic. (8-13-85)

iii. The department may require the removal of bridges, culverts, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner. (4-5-00)

**fg.** Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. (4-5-00)

i. Drainage structures shall be removed and stream gradients restored to their natural

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slope. (4-5-00)

ii. The road prism shall be treated to break up compacted areas. (4-5-00)

iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. (4-5-00)

iv. Unstable sidehill fills shall be pulled back to a stable configuration. (4-5-00)

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. (4-5-00)

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. (4-5-00)

**05. Winter Operations.** Due to risk of erosion and damage from roads and constructed skid trails inherent in winter logging, at minimum the following shall apply: (4-21-92)

**a.** Roads to be used for winter operations must have adequate surface and cross drainage installed prior to winter operations. Drain winter roads by installing rolling dips, driveable cross ditches, open top culverts, outsloping, or by other suitable means. (4-21-92)

**b.** During winter operations, roads will be maintained as needed to keep the road surface drained during thaws or break up. This may include active maintenance of existing drainage structures, opening of drainage holes in snow berms and installation of additional cross drainage on road surfaces by ripping, placement of native material or other suitable means. (4-21-92)

# ***RESOURCE & CONSERVATION***

## **IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**

### **25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

**DOCKET NO. 25-0101-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. A pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) (36-2107(b) and (d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The change in Rule 030 clarifies that a name shall be kept on a waiting list for a period of five years or until December 31 of the fifth year the name is placed on the list. Rule 034 provides that a guide application must be accompanied by an affidavit signed by the employing outfitter that the applicant will have a valid first aid card before they are employed as a guide. The changes in Rule 044 define "Field Supervisor". Changes in Rule 059 clarify the boundaries of the CL1 Section of the Clearwater River shall be from Lowell to the Lower Bridge at Kooskia with no fishing between the upper and lower bridges for CL1 outfitters, on CL2 of the Clearwater River at the Upper Bridge at Kooskia to the Bridge at Orofino, and on CL3 of the Clearwater River from the Orofino Bridge to the Clearwater River's confluence with the Snake River at Lewiston. The sections of Coeur d'Alene river have been clarified with four sections, CDNF which is the Headwaters of the North Fork of the Coeur d'Alene River, CD1 which is the Coeur d'Alene River from Devil's Elbow to the South Fork confluence and CD2, the South Fork confluence downstream to Cataldo Mission Boat Ramp, and CD3, the Lateral (Coeur d'Alene chain) Lakes connected by the Coeur d'Alene River from the Cataldo Mission Boat Ramp to the Highway 97 Bridge.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2005, Idaho Administrative Bulletin, Vol. 05-9, pages 242 through 266.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions



# ***RESOURCE & CONSERVATION***

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**OUTFITTERS AND GUIDES LICENSING BOARD**  
***Rules of the Outfitters and Guides Licensing Board******Docket No. 25-0101-0501***  
***PENDING RULE***

concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

DATED this 21st day of October, 2005.

## ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 36-2107(b) and (d), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes in Rule 002 provide that an “incidental” amendment would be a “minor” amendment; deletes the definition of “nonuse” because it is defined elsewhere; adds selling lifetime hunts to the definition of “unethical/unprofessional conduct”; and deletes the definition of “zero use” because “nonuse” is already defined elsewhere. The changes in Rule 007 provide that temporary employment or short term loan or transfer shall not be on a routine basis, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer, and that repeated transfers or loans of guides should be done by using the amendment process. The word “guide” is changed to “individual” in this rule because these individuals are not licensed guides. The changes in Rule 015 provide that instead of a late fee, a penalty fee shall be paid before the license is issued, that an outfitter shall pay an annual license fee for each license they hold and, if required, to submit use reports for each license, and be able to differentiate between each business and its clients. The change in Rule 019 deletes the requirement that the bond name the business and the designated agent since the statute only requires proof of a bond. The change in Rule 021 provides that the outfitter application shall include the name of the business entity registered as a “d.b.a.” or the name registered with the Secretary of State. The change in Rule 022 provides that the outfitter shall operate under the name(s) licensed by the Board and under no other names and that certain business entities must have a Designated Agent in order to be licensed and to operate. The change in Rule 024 deletes the current intent and descriptions of nonuse and waiver and provides for new definitions for these terms as well as definitions of “Zero Use,” “Negligible Use,” the process for finding non-use and what acceptable use is. It also provides for required records, for non-use during a sale and for waiver of compliance. The change in Rule 030 clarifies that outfitter waiting lists apply to all

## **RESOURCE & CONSERVATION**

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### **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

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licensed rivers, lakes and reservoirs in Rule 59 and for each specific Idaho Department of Fish and Game unit. They also clarify the directions the Board may take if there is no waiting list for an operating area and the application process and fee for each area to be considered, and that a name shall be kept on a waiting list for a period of two years or until December 31 of the second year the name is placed on the list. Criteria used in making selections shall include those used to consider new outfitter applications or license amendments. Rule 034 provides that a licensee will produce upon request, a valid first aid card while guiding. It also provides for gender-neutral wording. The changes in Rule 044 provide that the existing rule be replaced in its entirety with new language that reflects changes in this rapidly changing industry. Rule 45 is deleted due to language being consolidated in rule 44. The changes in Rule 054 correct the spelling of anadromous and makes Clearwater River stickers on guide boats permanent. Changes in rule 59 clarify the boundaries of the CL1 Section of the Clearwater River shall be from Lowell to the Upper Bridge at Kooskia, on CL2 at the Upper Bridge at Kooskia to the Bridge at Orofino, and on CL3 from the Orofino Bridge to the Railroad Bridge at Lewiston. On this section each outfitter may use at any one time a maximum of (a) three (3) power boats or three float boats or combination thereof if licensed for both fishing, and (b) five (5) boats for other boating activities per license. The Coeur d'Alene river has been added with four sections, CDNF which is the Headwaters of the North Fork of the Coeur d'Alene River, CD1 which is the Coeur d'Alene River from Devil's Elbow to the South Fork confluence and CD2, the South Fork confluence downstream to Cataldo Mission Boat Ramp, and CD3, the Lateral (Coeur d'Alene chain) Lakes connected by the Coeur d'Alene River from the Cataldo Mission Boat Ramp to the Highway 97 Bridge. Subsection 02 of this Rule includes the Salmon River through the Snake River and Section 03 of this Rule includes the Snake River through the Teton River.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Fees discussed in the rulemaking are implementation of existing fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted prior to submission involving the Idaho Outfitter and Guides Association. Input was taken from the industry in June of 2004 through a postcard notification and email posting of the rules. Meetings were held Dec. 9, 2004 with the IOGA Governmental Affairs Committee, Jan. 18, 2005 with Representatives of the IOGA Executive Committee, April 27, 2005 IOGA Executive Director Appeared before the Board, June 2 2005, a meeting was held with the Governmental Affairs Committee, June 29, 2005. Mr. Simonds appeared before the Board during a conference call. An additional post card notification and email posting was conducted in August 2005 and the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by Section 67-5222, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382

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**OUTFITTERS AND GUIDES LICENSING BOARD**  
**Rules of the Outfitters and Guides Licensing Board**

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**PENDING RULE**

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2005.

DATED this 19th day of July, 2005.

Jake Howard  
Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard, Suite 172  
Boise, ID 83706  
(208) 327-7380  
FAX (208) 327-7382

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **002. DEFINITIONS.**

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

**01. Act.** Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

**02. Administrative Noncompliance.** (3-10-03)

**a.** Two (2) or more repeated failures to apply for license renewal in a timely manner; or (3-10-03)

**b.** Two (2) or more repeated failures to file a complete application pursuant to Section 36-2113(a)(1), Idaho Code. (3-10-03)

**03. Authorized Person.** An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

**04. Board.** The Idaho Outfitters and Guides Licensing Board. (4-1-92)

**05. Board Meeting.** The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

**06. Booking Agent.** Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter

# RESOURCE & CONSERVATION

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## OUTFITTERS AND GUIDES LICENSING BOARD Rules of the Outfitters and Guides Licensing Board

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clientele. (4-1-92)

**07. Compensation.** The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

**08. Completed Application.** An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

**09. Consideration.** The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

**10. Desert.** A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

**11. Designated Agent.** An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. ~~The name of each designated agent employed by an outfitter shall appear on the outfitter's bond.~~ A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)( )

**12. Drift Boats.** Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

**13. Enforcement Agent.** An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

**14. Facilities and Services.** The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)

**15. First Aid Card.** A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

**16. Fishing.** Fishing activities on those waters and for those species described in the

# **RESOURCE & CONSERVATION**

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## **OUTFITTERS AND GUIDES LICENSING BOARD Rules of the Outfitters and Guides Licensing Board**

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rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, “Rules Governing Fish,” general fishing seasons and any anadromous fishing rules; for purposes of the “Act”, fishing is defined as follows: (4-1-92)

- a.** Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)
- b.** Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)
- c.** Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)
- d.** Incidental fishing means fishing conducted as a minor activity. (4-1-92)
- e.** Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)
- f.** Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

**17. Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

**18. Guide.** An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

**19. Guide License.** A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

**20. Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, and motored and non-motored cycling, but does not include wagon rides or sleigh rides. (3-10-03)

**21. He/His/Him.** Shall mean either the male or female gender. (4-1-92)

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## OUTFITTERS AND GUIDES LICENSING BOARD Rules of the Outfitters and Guides Licensing Board

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**22. Hunting.** The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-30-01)

**23. Incidental Activity.** Shall be and is the same as a minor activity. (4-1-92)

**24. ~~Incidental~~ Minor Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (~~4-1-92~~)( )

**25. Investigator.** An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

**26. Major Activity.** A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

**27. Major Amendment.** All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

**28. Minor Activity.** A licensed activity the nature of which must be carried out in conjunction with a major activity, but is not the primary purpose of the excursion. (3-15-02)

**29. Mountainous.** A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)

**30. New Opportunity.** A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

**31. Nonresident.** An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)

**32. ~~Nonuse.~~** ~~Inactivity, such as incidental activity only, or an outfitter's making zero (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use," and Subsection 024.01.~~ (~~3-23-98~~)

**332. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)

**343. Operating Plan.** A detailed schedule or plan of operation which an outfitter

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## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

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proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)

**354. Outfitter.** An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

**365. Outfitter License.** A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Section 36-2102(b), Idaho Code. The conduct of an outfitted operation on any land(s) is not authorized unless signed permission, a permit, or a lease is obtained from the land owner(s), or their agent(s), and filed with the Board. (3-15-02)

**376. Out-of-Pocket Costs.** The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)

- a. Compensation for either sponsors or participants; (4-1-92)
- b. Amortization or depreciation of debt or equipment; or (4-1-92)
- c. Costs of non-expendable supplies. (4-1-92)

**387. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-1-92)

**398. Relinquishment of License Privileges.** The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)

**4039. Resident.** An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)

**440. Rules.** The Rules of the Board. (4-1-92)

**421. Stay of Board Action.** An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)

**432. Third Party Agreement.** The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

**443. Trainee.** A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be

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### **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

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recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)

**454. Boat Trainee Under Supervision.** A boat trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (3-10-03)

**465. Unethical/Unprofessional Conduct.** Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-30-01)

- a. An outfitter employing an unlicensed guide; (3-30-01)
- b. Providing false, fraudulent or misleading information to the Board; (3-30-01)
- c. Failure to obey an order of the Board; (3-30-01)
- d. Failure to provide services as advertised or contracted; (3-30-01)
- e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)
- f. Violation of state or federal fish and game laws; (3-30-01)
- g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)
- h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)
- i. Failure to pay a supplier of goods or services to the outfitter business; (3-15-02)
- j. Failure to pay state taxes; or (3-15-02)
- k. Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)
- l. Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. ( )

**476. Validated Training Form.** An approved form bearing the "Great Seal of the State of Idaho" and the official stamp of the Board affixed thereon. (4-1-92)

**487. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)



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~~49. **Zero Use.** No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 007. LICENSE RESTRICTIONS.

A license issued by the Board shall, for an outfitter license, specify the operating area and all activities for which the outfitter is licensed; for a guide license, specify all activities for which a guide is qualified to guide and shall indicate the outfitter(s) who signed the guide license application as the employing outfitter(s); and identify such limitation(s) or qualification(s) as may be imposed by the Board in issue of said license. (10-15-88)

**01. Restriction.** An outfitter shall not conduct any activities not specified on the outfitter license, nor operate in any area(s), nor on any water(s) for which he is not licensed. (10-15-88)

**02. Qualified.** All outfitters must be qualified to guide or have in their employment a licensed guide or guides who are qualified for the activity(ies) for which the outfitter is licensed. (10-15-88)

**03. Review.** An outfitter's qualifications to guide shall be reviewed by the Board, and, if approved, he will be issued both an outfitter and guide license at no additional fee. (10-15-88)

**04. Guide Restrictions.** A guide shall not guide for any activity(ies), or on any water, or in any operating area for which his employing outfitter is not licensed. (5-1-95)

**05. Qualifications.** The qualification(s) of an outfitter or guide licensee shall be determined in accordance with Idaho Code, Title 36, Chapter 21, and Rules promulgated thereunder. (10-15-88)

**06. Limitation.** A limitation in number of clientele served, operating area, or any other criteria affecting the safety, health, and welfare, of the public or viability of the fish, and wildlife, or other natural resources shall be imposed in licensing where such limitation is deemed necessary by the Board in accordance with Idaho Code, Title 36, Chapter 21, and the Idaho Outfitters and Guides Licensing Board Rules. (10-15-88)

**07. Notification.** An outfitter shall notify the Board: (10-15-88)

**a.** When an outfitter permanently terminates the services of a licensed guide during the season, the Board shall be notified within fifteen (15) days, stating the date of termination. (10-15-88)

**b.** When an outfitter employs a licensed guide who is not currently licensed under his outfitter's license, said outfitter shall notify the Board within fifteen (15) days. ~~(10-15-88)~~(\_\_\_\_)

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c. The above requirements shall not apply in the case of a temporary employment, or short term "loan" or transfer (less than fifteen (15) days duration and not on a routine basis) of a guide between outfitters, or termination of employment of a guide upon completion of the seasonal activity for which the guide was employed. When there is a loan or transfer, the employing outfitter or authorized agent shall keep written documentation of the loan or transfer and dates and times. Repeated transfers or loans of guides are required to be done by using the amendment process. ~~(10-15-88)~~(\_\_\_\_)

d. In addition, an outfitter may employ an individual to guide for ten (10) days or for one (1) excursion, whichever is less, using a ~~one-time temporary guide license on a form~~ letter of authorization provided by the Board. With the exception of a current first-aid card, the ~~guide individual~~ individual shall be otherwise fully qualified to provide guiding services in the area and for the activity guided. The employing outfitter shall certify to the Board prior to employment that the ~~guide individual~~ individual is qualified and may only use one (1) ~~guide individual~~ individual in this manner per license year. ~~(3-23-98)~~(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

## 015. ANNUAL DATE, MULTIPLE YEARS, FEES, AND PAYMENT.

### 01. Annual Dates. (3-20-04)

a. All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (3-20-04)

b. All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (3-20-04)

c. The last day of the license year for all licenses is March 31 of each year. (3-20-04)

d. Guide license applications may be submitted at any time during the year. (3-20-04)

02. **Outfitter and Designated Agent ~~Late~~ Penalty Fee.** When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: ~~(3-20-04)~~(\_\_\_\_)

a. A completed application received by the Board the last day of the license year - no ~~late~~ penalty fee shall apply. ~~(3-10-03)~~(\_\_\_\_)

b. A completed application received by the Board after the last day of the license year - a ~~fifty dollar (\$50) late~~ penalty fee shall be paid before the license is issued. ~~(3-10-03)~~(\_\_\_\_)

03. **License Lapsed and Relinquished.** A completed outfitter application received by the Board after ninety (90) days after the last day of the license year will not be accepted for

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licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (3-10-03)

**04. Refund of Unused One Time Application Fees.** All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)

**05. Multiple Year Licenses.** (3-20-04)

**a.** Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (3-20-04)

**b.** License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (3-20-04)

**c.** The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (3-20-04)

**d.** There shall be no reimbursement of fees should the license become revoked or relinquished. (3-20-04)

**e.** Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (3-20-04)

**06. Payment.** ( )

**a.** Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. ~~(3-20-04)~~( )

**b.** The applicant must pay an annual license fee for each license issued, submit annual use reports for each license, and be able to differentiate between each business and its clients. ( )

**c.** Designated Agents must pay an annual license fee for each license issued. ( )

**d.** Guides must pay an annual license fee for a license but that license can be amended to include more than one (1) outfitter. ( )

**07. Expedited or Emergency Application Fees.** The fee for expedited or emergency applications for which there is a request to have the application pulled forward before other applications and have it processed and a license issued within seven (7) days of receipt of the application shall be: (3-16-04)

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- a. One hundred fifty dollars (\$150) for an outfitter license; (3-16-04)
- b. Seventy-five dollars (\$75) for a designated agent license; and (3-16-04)
- c. Fifty dollars (\$50) for a guide license. (3-16-04)

**08. Resubmittal, Exceptional or Special Processing of Application.** The fee for resubmittal, exceptional or special processing of an application that is incomplete, or for other reasons for which the Board is otherwise unable to process the application shall be: (3-16-04)

- a. One hundred dollars (\$100) for an outfitter license; (3-16-04)
- b. Seventy-five dollars (\$75) for a designated license; (3-16-04)
- c. Fifty dollars (\$50) for a guide license; and (3-16-04)
- d. Five dollars (\$5) for allocation fee recovery. (3-16-04)

**09. Fees Associated With the Filing of Applications.** There shall be a credit for online and electronic filing of applications, and a fee for the use of credit cards corresponding to the cost to the agency for processing the card pursuant to Section 36-2108, Idaho Code. (3-16-04)

- a. Twenty dollars (\$20) for an outfitter license; (3-16-04)
- b. Seven dollars (\$7) for a designated agent license; and (3-16-04)
- c. Five dollars and twenty-five cents (\$5.25) for a guide license. (3-16-04)

## **(BREAK IN CONTINUITY OF SECTIONS)**

### **019. DESIGNATED AGENT.**

When the applicant is a corporation, firm, partnership, or other organization or combination thereof, a supplemental form shall be completed and it shall designate at least one (1) designated agent who is a qualified outfitter who shall be responsible for the outfitting business. The outfitter business and designated agent(s) must each make application and obtain licenses. One (1) Proof of a bond naming the business and the designated agent(s) must be submitted to the Board to complete a renewal application. Any new applicant who has been approved by the Board must submit a bond prior to the issuance of a license. ~~(10-15-88)(\_\_\_\_)~~

## **(BREAK IN CONTINUITY OF SECTIONS)**

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### **021. EVALUATION OF THE OUTFITTER APPLICATION.**

In evaluating an outfitter application for approval or denial, the Board shall consider, but not be limited to, the following criteria: (3-1-86)

**01. Compliance.** Applicant compliance with qualification criteria as prescribed in the Act and the Rules. (3-1-86)

**02. Need for Services.** The public need for the proposed service(s) in the area requested on the application. (3-1-86)

**03. Other.** The extent of the applicant's experience, knowledge, and ability in the area and in the conduct of activities requested. (3-1-86)

**04. Equipment and Resources to Operate.** The applicant's qualifications by reason of equipment or resources to operate. (3-1-86)

**05. Previous Record.** The applicant's previous record. (3-1-86)

**06. Accessibility of Area.** The accessibility of the area and use by the general public, the commercial use already licensed in the area, the particular terrain, and normal weather conditions during the season of operation. (3-1-86)

**07. Area Requested.** The total amount of area requested, giving due consideration to the effect such license would have upon the environment, the amount of game available to be harvested, the probable impact on the area should additional licenses be issued, and the number of persons who can be adequately served in the area. (3-1-86)

**08. Operating Plan.** The adequacy and acceptability of the proposed operating plan. (3-1-86)

**a.** The applicant's knowledge of financial and business management needs and practices. (3-1-86)

**b.** The applicant's ability to manage and direct personnel and guests. (3-1-86)

**09. Name.** The name registered as a d.b.a. (doing business as), or the name of the business entity, registered with the Secretary of State. ( )

### **022. ISSUANCE OF AN OUTFITTER LICENSE.**

When the Board issues an outfitter license, said license shall specify the activity(ies) for which the applicant is licensed, designate specific operating area(s) for each activity, and be based on an operating plan acceptable to the Board. In order to safeguard the health, safety, and welfare of the public and for the conservation of wildlife resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. An outfitter may not operate in an area for which there is no landowner or land manager ~~signoff~~ statement where applicable. The outfitter shall operate only under the names licensed by the Board and under no other names. An outfitter business that is a corporation, partnership, LLC or LLP must have a Designated Agent in order to

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be licensed and to operate.

(3-15-02)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 024. STANDARDS FOR NON-USE.

~~Prior to the renewal of a license, the Board shall review the outfitter's use reports for the preceding three (3) years to determine whether the operation falls within a nonuse category as defined in Subsection 024.01. If the outfitter falls within a nonuse category, a "notice of nonuse" may be issued to the outfitter. The notice shall include the activity(ies) and operating area(s) deemed to be in nonuse, an explanation of how the determination was made, and the hearing date on which the Board will consider whether the license or any part thereof should not be renewed because of nonuse.~~ An outfitter license is a publicly issued license enabling the holder to provide outfitted and guided services to the public. Because many outfitters operate on public lands and waters, there is an expectation that these services be provided adequately and that the public's natural resources are utilized appropriately. It is important to determine whether the outfitter is providing, or attempting to provide, the public service intended. It is recognized that there are various factors outside the control of an outfitter that may affect an outfitter's business operation. This rule establishes the process used by the Board to monitor the use of outfitter assigned activities and operating areas, to determine the causes for outfitter inactivity, and to fairly administer identified remedies when this service is inadequately provided or the resource is inadequately used. The Board will prioritize the need for action on non-use based on, among other factors, interest or demand for the particular activity or area.

(3-1-86)( )

**01. ~~Nonuse.~~** ~~For the purpose of this section shall mean zero (0) use of an outfitter's licensed activity(ies) for any two (2) of the three (3) preceding years as reported by the licensee in his annual report to the Board.~~ **Requirement.** The Board may annually review the outfitter's use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a "notice of non-use" may be issued to the outfitter.

(3-1-86)

**02. ~~Waiver.~~** ~~Upon a showing of good cause, the Board may waive compliance with the nonuse standard.~~ **Definitions.**

(3-1-86)( )

**a.** Non-use. When an outfitter is making zero (0) or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients;

( )

**b.** Zero (0) use. No recorded use by an outfitter of their licensed area or activities;

( )

**c.** Negligible use. An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be determined by comparison of use levels for the same activity(s) in similar operating areas. Other factors in determining use are found in Subsection 024.04.

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**03. Process.** ( )

**a.** Outfitters are required to submit use reports each year during the license renewal. ( )

**b.** A “notice of non-use” may be issued to an outfitter who appears to be in non-use. The notice shall include the activity(s) and operating area(s) that appear to be in non-use and an explanation of how the determination was made. The outfitter will be given the opportunity to correct the use records by supplying staff with evidence of use, prior to a hearing being scheduled. If adequate proof of use is not provided, the matter will be scheduled for a hearing. ( )

**c.** When it is determined by the Board that any activity or operating area has had zero (0) use or negligible use, certain requirements may be imposed by the Board up to and including revocation of some or all of the outfitter’s operating areas and activities. ( )

**04. Examples of Acceptable Use:** ( )

**a.** Paying clients participating in activities occurring within a designated operating area; ( )

**b.** Donated trips; ( )

**c.** Outfitter initiated applications for controlled hunts in their licensed operating area; ( )

**d.** Outfitter initiated applications for trophy species; and ( )

**e.** Use in conformance with a current and accepted operating plan. ( )

**05. Required Records.** Outfitters may be required to submit client records that include the name, address, and date of activity of individual clients or groups for a period of three (3) consecutive years. ( )

**06. Non-Use During a Sale.** Board staff shall review all full or partial business sales for non-use. If it is determined a major activity or operating area has had zero (0) or negligible use, the Board may review the sale and the issuance of a license may be denied. In some instances the Board may approve the sale with notification to the buyer that use must be established within the following two (2) out of the next three (3) years or the area or activity may be removed from their license. ( )

**07. Waiver of Compliance.** The Board may waive compliance with the non-use standard upon a showing of good cause. Waivers of non-use may be issued when the lack of use is a result of an act of nature, or by state or federal agency seasonal restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients. Waivers may also be considered when personal circumstances such as illness or injury limit the ability of the outfitter to seek and accommodate clients. Non-use waivers must be applied for prior to the beginning of the license year or immediately upon the advent of extenuating circumstances. If a federal permit

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holder is requesting zero (0) or negligible use, the request for a waiver must be accompanied by a Land Manager's Statement. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 030. OUTFITTER WAITING LISTS.

When there are more outfitter applications for ~~river operations~~ an outfitter operating area than the maximum number of licenses allowing such activity, or when an ~~outfitter applicant~~ individual wishes to be ~~licensed~~ considered in an area to which another outfitter has historically been licensed, the Board shall maintain a list of such ~~applicants~~ individuals for notification of an available opening. ~~The initial application must be complete except for bond and license fee. When, or if, an available opening does occur and public announcement is made, the Board shall use the waiting list for direct notification by mail of interested parties, and shall select a qualified candidate. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply during the open period as announced by the Board in order to have his application considered. If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board (if it deems it advisable to relicense the area) shall publicize the area's availability and accept written applications for a thirty (30) day period of time from the date of public notice from those persons wishing to be licensed to the area. The Board shall then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified. Criteria to be used in making this selection shall include, but shall not be limited to, the following:~~ If there is no waiting list for an area, the Board may proceed with the license application or may employ a competitive application process. (5-1-95)( )

01. ~~Qualification. General outfitter qualifications as outlined in the Act and Rules.~~ Waiting List. The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 059 and for each specific Idaho Department of Fish and Game (IDFG) unit listed in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho". (3-1-86)( )

02. ~~Experience. Experience in an outfitting business.~~ Outfitter Application or Outfitter Amendment Form. A new outfitter application or outfitter amendment form must be completed and a partial application fee submitted for each river section, lake and reservoir and for each specific IDFG unit that the individual desires. The individual must indicate all activities for which they wish to be considered on the application form. (3-1-86)( )

03. ~~Business Experience. Other business experience or training.~~ New Outfitter Waiting List Application Fee. The Board will charge the individual wishing to be placed on a waiting list a partial application fee for each area for which they wish to be considered. (3-1-86)( )

04. ~~Financial Resources. Financial resources available to operate the proposed business.~~ Length of Time Name Is on Waiting List. A name on the waiting list shall be maintained for a period of five (5) years or until December 31 of the *fifth* year that the name is placed on the list, whichever comes first. (3-1-86)( )



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05. ~~Equipment Resources. Equipment resources available to operate the proposed business.~~ **When Available Outfitting Opening Occurs.** When, or if, an available opening does occur and public announcement is made, the Board shall use the waiting list for direct notification by mail of interested parties, and shall select a qualified candidate from those who apply. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply by submitting all necessary forms and fees during the open period as announced by the Board in order to have his application considered. (3-1-86)( )

06. ~~Adequacy. Adequacy and acceptability of the proposed operating plan for use of the requested operating area.~~ **When an Operating Area Is Relinquished by the Licensee.** If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board (if it deems it advisable to relicense the area) shall publicize the area's availability and accept written applications for a thirty (30) day period of time from the date of public notice from those persons wishing to be licensed to the area. The Board shall then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified. Criteria to be used in making this selection shall include those criteria used to consider new outfitter applications or those criteria used to consider existing outfitters who wish to amend their licenses. (3-1-86)( )

07. **Availability.** ~~In compliance with the above criteria, t~~ The Board shall determine the availability of operating areas for relicensing by the beginning of each license year. (3-1-86)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 034. GUIDE APPLICATION REQUIREMENTS - GENERAL.

To be complete, an application for a guide license must: (4-1-92)

01. **First Aid Card.** Be accompanied by an affidavit signed by the employing outfitter that the applicant will have a valid first aid card ~~while guiding~~ before they are employed as a guide. (3-10-03)( )

02. **Signatures.** Have the signature of the applicant and of the licensed outfitter(s) who wishes to employ the applicant as a guide, who shall certify that the applicant: (4-1-92)

a. Is qualified to perform the type of guiding activity(ies) for which ~~he the applicant~~ seeks licensing; i.e., hunting, boating, skiing, or other as may be applicable. (4-1-92)( )

b. Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which ~~he the applicant~~ will be guiding. (4-1-92)( )

c. If the ~~guide applicant~~ is land based, ~~the guide~~ is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (3-30-01)( )

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d. Is clean and well-mannered with a desire to please those whom ~~he~~ the applicant is called upon to serve. (4-1-92)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### **~~044. Cross Country Ski Guide.~~**

~~Cross-country ski guide applicants may be licensed in several ways, depending upon training, expertise, and skill levels.~~ (4-1-92)

~~01. **Apprentice Guide (Trainee).** Not qualified to guide alone, but may assist in guiding day trips under the direct leadership of a guide or lead guide, or may assist on overnight trips under the direct supervision of a lead guide only. An apprentice or trainee guide must have the same general knowledge as a ski guide, but has not passed the qualifying backcountry program in order to qualify as a guide or lead guide.~~ (4-1-92)

~~02. **Guide (Associate Certified Backcountry – PSIA).** Qualified only to guide day trips in non-hazardous terrain or assist in guiding day or overnight trips in hazardous terrain under the direct leadership of a lead guide. To obtain a license as a guide, the applicant shall have met all the general requirements for a guide license and must have good ability to ski, leadership qualities, knowledge of route selection, map and compass reading, emergency shelter technique and equipment including a minimum first aid kit, awareness of hypothermia and avalanche conditions, and must have passed the qualifying backcountry program to become a ski guide.~~ (4-1-92)

~~03. **Lead Guide (Full Certified Backcountry – PSIA).** Fully qualified to guide day and overnight trips in any terrain.~~ (4-1-92)

~~a. To obtain a license as a lead cross-country ski guide, the applicant shall have passed a backcountry qualifying examination and obtained full certification from a division of the Professional Ski Instructors Association (PSIA) or from an organization with similar training and examining procedures which are acceptable to the Board, or have passed a qualified program for guiding skiing that is acceptable to the Board. The Board reserves the right to investigate the training program and examining procedures of any organization whose certification is submitted as a qualification for a license. The guide must have experience guiding in areas of equivalent terrain to the operating area(s) requested. He must have also accompanied a licensed lead ski guide on a minimum of three (3) overnight tours. A log shall be submitted giving dates, miles traveled, location of trips, and shall be signed by the lead guide. All overnight ski tours shall be under the direct leadership of a licensed lead ski guide. "Direct leadership" means the licensed lead ski guide shall accompany the group for the entire tour.~~ (4-1-92)

#### **044. SKIING, NON-HAZARDOUS AND HAZARDOUS TERRAIN OUTFITTER, DESIGNATED AGENT, SKI GUIDE AND SKI GUIDE TRAINEE.**

**01. Applications.** ( )

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**a.** An outfitter, designated agent or guide must submit an outfitter or a guide application with current outfitter operating plan, if required, ski resume, avalanche training certificates, appropriate fees and proof of first aid training. ( )

**b.** The Board will then send this information to the Technical Advisory Committee (TAC) for evaluation. The TAC is a five (5) member body of qualified backcountry ski outfitters and ski guides appointed by the Executive Director and confirmed by the Board to advise the Board on non-hazardous and hazardous terrain skiing. ( )

**c.** The TAC will designate or determine the scope of the outfitting operation and whether guiding principally in non-hazardous or hazardous terrain. The TAC will then recommend to the Board whether or not the Board should license the outfitter or guide as either Level I Ski Operator (non-hazardous terrain, principally sub- alpine or skiing operations in forests) or a Level II Ski Operator (hazardous terrain with a high degree of avalanche exposure). Designated agents and guides are licensed to fill job duties of the respective outfitters based upon terrain and services of the guide rendered. ( )

**02. Designations and Qualifications for Outfitters, Designated Agents, Guides and Trainees are as Follows:** ( )

**a.** Level I ski guide (non-hazardous terrain). Is qualified to lead ski tours in the outfitter's operating area. One (1) year training as a ski guide assistant in a non-hazardous backcountry setting. Level I Ski Guides may work in hazardous terrain as a Level II Ski Guide Trainee under the supervision of a Level II Ski Guide. Level I Ski Guides are required to have: ( )

i. Standard First Aid training as per guide licensing in Idaho; ( )

ii. Level I field-based avalanche training consisting of a twenty-four (24) hour curriculum submitted and an instructor roster; ( )

iii. Knowledge of Outfitters Scope of Operation including logistics, services, terrain; and ( )

iv. A letter of reference from the employing outfitter. ( )

**b.** Level II ski guide (hazardous terrain). Has in-depth ski guiding experience on hazardous terrain and has the following qualifications: ( )

i. Two (2) winter seasons training with Licensed Level II Ski Outfitter or Guide or equivalent work experience with another Level II ski operation which conduct services principally in hazardous or avalanche terrain; ( )

ii. Advanced First Aid, WFR, or EMT of a minimum of forty-eight (48) hours;( )

iii. Level 1 and Level II field-based avalanche training consisting of at least forty-eight (48) hours curriculum with a submitted instructor roster; ( )

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iv. Knowledge of the Outfitters Scope of Operation including logistics, services, terrain; and ( )

v. A letter of reference from the employing outfitter. ( )

**03. Outfitters.** Outfitters who conduct winter ski-based operations may be designated as: ( )

**a.** Level I: self-propelled, with snowcat, or with snowmobile assisted including day skiing, hut skiing in non-hazardous terrain; ( )

**b.** Level II: self-propelled including day skiing, hut skiing, multi-day expeditions, in hazardous terrain; or ( )

**c.** Level II skiing operations with snowcats, helicopters, or ski from out of bounds from ski areas. ( )

**04. Outfitters Plan of Operation.** A detailed Outfitters Plan of Operation is required which includes a plan for snowpack, terrain and avalanche safety assessment, additional transport utilized (i.e., snowmobiles, snowcats, helicopters) and instruction and training plans of guides working around related equipment. Additional safety and training standards for guides must be detailed in the operating plan. ( )

**05. Field Supervisor.** The Outfitter must employ at least one individual acting as a field supervisor who must be a working Guide with the appropriate level of licensing for the operation and a minimum of five (5) years working at that level of guiding as to the scope of the operation, if the outfitter or Designated Agent does not satisfy this experience qualification. The individual will be required to provide a cover letter for each guide application attesting to the guides qualifications. ( )

**06. Ski Guide Trainees.** Trainees may be selected for employment by the outfitter and are not required to have a license. A trainee may only assist a licensed guide's direct supervision and trainees may not provide guided services to clients. Trainees must have thirty (30) days experience with a licensed ski guide in the outfitter's operating area and must meet all other guide requirements of Section 044 prior to submitting a guide application. ( )

### **045. BACKCOUNTRY ALPINE SKI GUIDE (RESERVED).**

~~Before conducting operations, all backcountry alpine ski guides must be licensed by the Board and employed by an outfitter who has an operating plan approved by the land manager. Guides must meet the following requirements:~~ (4-1-92)

~~**01. Avalanche Training.** Have at least forty (40) hours avalanche training at a Forest Service school, an American Avalanche Institute, Sierra Avalanche seminars, or the equivalent.~~ (4-1-92)

~~**02. Radio Communications.** Have radio communication knowledge.~~ (4-1-92)

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~~03. Skier Safety Rules. Have skier safety rules training. (4-1-92)~~

~~04. Other. Have passed the regular backcountry qualifying examination and obtained full certification from a division of the Professional Ski Instructors Association (PSIA) or a qualified program acceptable to the Board. (4-1-92)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 054. BOAT EQUIPMENT REQUIREMENTS.

Each float or power boat must have: (4-1-92)

**01. Life Jacket.** A life jacket for each passenger and boatman. The life jackets must be of a type approved by the U.S. Coast Guard for use in boats carrying passengers for hire and must be maintained in good and serviceable condition. (4-1-92)

**02. Fire Extinguisher.** A fire extinguisher. (Does not apply to float boats without motors for steerage). (4-1-92)

**03. Identification.** (3-20-04)

**a.** Identification consisting of words, names, or letters indicating the current licensed outfitter. The identification shall be recorded with the Board on the outfitter application and shall be placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters not less than three (3) inches in height, and be of a contrasting color. (Does not apply to single person boats or two (2) person inflatable boats). (3-20-04)

**b.** On Sections CL2 and CL3 of the Clearwater River, the outfitter shall have a sticker affixed to the surface of any boat used for ~~anadromous~~ anadromous fishing. The sticker shall not be less than eight (8) inches in height and shall be placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. The stickers shall be provided and sold annually by the Board or a vendor designated by the Board. ~~This requirement shall not apply to single person boats or inflatable boats. The sticker requirement is null and void after July 1, 2006.~~

(3-20-04)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

**01. Licensable Waters -- River Sections (BL1) Blackfoot River through (PR1) Priest River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides.

# **RESOURCE & CONSERVATION**

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

<b>River/Section</b>	<b>Maximum No. Power</b>	<b>Maximum No. Float</b>
<b>(BL1) Blackfoot River</b> - Morgan Bridge to Trail Creek Bridge	none	2
<b>(BO1) Boise River, South Fork</b> - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. (Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman.) No overnight camping or walk-and-wade fishing allowed.	none	2
<b>(BO2) Boise River</b> - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. (Each outfitter may use at any time a maximum of four (4) boats for boating activities.) The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
<b>(CF1) Clark Fork River</b> - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
<b>(CL1) Clearwater River</b> - Lowell to the <u>Lower Bridge at Kooskia</u> . (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. <u>Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters.</u> The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	none	5
<b>(CL2) Clearwater River</b> - <u>The Upper Bridge at Kooskia</u> to the Orofino Bridge. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).	6	10
<b>(CL3) Clearwater River</b> - The Orofino Bridge to the <u>mouth of the Clearwater River with the Snake River at Lewiston</u> . (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).	10	10
<b>* (NFCL) North Fork Clearwater River</b> - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4

# RESOURCE & CONSERVATION

## OUTFITTERS AND GUIDES LICENSING BOARD Rules of the Outfitters and Guides Licensing Board

**Docket No. 25-0101-0501  
PENDING RULE**

River/Section	Maximum No. Power	Maximum No. Float
<b>(CDNF) Headwaters of North Fork Coeur d' Alene</b> - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. <u>Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.</u>	<u>none</u>	<u>none</u>
<b>(CD1) Coeur d'Alene River</b> - Devil's Elbow to South Fork confluence (boating closing date <u>is</u> June 30). Fishing limit is <u>two (2) float boats per license with a maximum of two (2) clients at a time per boat.</u> Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time <u>per license.</u>	none	51
<b>(CD2) Coeur d'Alene River</b> - South Fork confluence downstream to Cataldo Mission Boat Ramp. The float boat closing date is June 30. Fishing limit is one (1) float boat per license with a maximum of two (2) clients <u>or two walk and wade clients per license</u> at a time. Walk and wade activities <u>do not have to be initiated from a float boat.</u>	<u>none</u>	1
<b>(CD3) Lateral (Coeur d'Alene chain) Lakes</b> - Connected by the Coeur d' Alene river. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) <u>guide per license and two (2) float tubes at a time or two (2) clients walking and wading.</u> The walk and wade activities must be associated with the <u>power boating.</u>	<u>3</u>	<u>none</u>
<b>* (JB1) Jarbidge/Bruneau Rivers</b>	none	4
<b>(KO1) Kootenai River</b> - Montana stateline to Canada boundary	5	5
<b>(LCL1) Little North Fork Clearwater River</b> - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. (Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.)	none	2
<b>* (LO1) Lochsa River</b>	none	5
<b>(MO1) Moyie River</b> - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
<b>* (OW1) Owyhee River</b> - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River (and continuing on to a take-out point).	none	6

# ***RESOURCE & CONSERVATION***

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

River/Section	Maximum No. Power	Maximum No. Float
<b>(PN1) Payette River, North Fork</b> - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN1A) Payette River, North Fork</b> - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
<b>(PN2) Payette River, North Fork</b> - Cabarton to Smiths Ferry Bridge	none	5
<b>(PS1) Payette River, South Fork</b> - Grandjean to Deadwood River	none	5
<b>* (PS2) Payette River, South Fork</b> - Deadwood River to Banks	none	5
<b>(PA1) Payette River</b> - Banks to Black Canyon Dam	none	5
<b>(PO1) Pend Oreille River</b>	5	5
<b>(PR1) Priest River</b> - Dickensheet Campground to Priest River City	none	5

( )

**02. Licensable Waters -- River Sections (MF1) Middle Fork Salmon River Through (SE2) Selway River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
<b>*** (MF1) Salmon River, Middle Fork</b> - Boundary Creek to Indian Creek	none	27
<b>*** (MF2) Salmon River, Middle Fork</b> - Indian Creek to Cache Bar on the Salmon River	none	27



# **RESOURCE & CONSERVATION**

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

<b>River/Section</b>	<b>Maximum No. Power</b>	<b>Maximum No. Float</b>
<b>(SA1) Salmon River</b> - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
<b>(SA2) Salmon River</b> - Torrey's Bar to first Highway 93 bridge above Challis. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan).	none	5
<b>(SA3) Salmon River</b> - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
<b>(SA4A) Salmon River</b> - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
<b>(SA4B) Salmon River</b> - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
<b>(SA5) Salmon River</b> - North Fork to Corn Creek	3	9
<b>*** (SA6) Salmon River</b> - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	14	31
<b>* (SA7A) Salmon River</b> - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26

# ***RESOURCE & CONSERVATION***

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

River/Section	Maximum No. Power	Maximum No. Float
* <b>(SA7B) Salmon River</b> - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	6	12
* <b>(SA7C) Salmon River</b> - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
*** <b>(SA8) Salmon River</b> - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* <b>(SE1) Selway River</b> - Paradise Campground to Selway Falls	none	4
<b>(SE2) Selway River</b> - Selway Falls to the mouth of the Selway River at Lowell. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.)	none	5

( )

**03. Licensable Waters -- River Sections (SH1) Henry's Fork Snake River Through (TE3) Teton River -- Table.** The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

# **RESOURCE & CONSERVATION**

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

<b>River/Section</b>	<b>Maximum No. Power</b>	<b>Maximum No. Float</b>
<b>(SH1) Snake River, Henry's Fork</b> - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing {No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford}, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan}.	none	7
<b>(SH2) Snake River, Henry's Fork</b> - Mesa Falls to St. Anthony. {Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, {no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony}, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan}.	none	8
<b>(SH3) Snake River, Henry's Fork</b> - St. Anthony to confluence with South Fork of Snake River. {Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan}.	none	4
<b>(SS1) Snake River - South Fork</b> - Palisades Dam to confluence with Henry's Fork. No more than four (4) boats per section/per day may be used by an outfitter at any one time on any of the following river reaches: (a) Palisades Dam to Swan Valley Bridge; (b) Swan Valley Bridge to Black Canyon (Exception: Not more than eight (8) boats will be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m.); (c) Black Canyon to Poplar (Kelly Canyon); and (d) Poplar to the confluence with Henry's Fork. Restrictions: No outfitter may have more than twelve (12) boats on the SS1 in any one (1) day. Further, the lower boundary of Section (a) (Palisades Dam to Swan Valley Bridge) shall overlay Section (b) to the Conant takeout (Swan Valley Bridge to Black Canyon), and Section (b) shall overlay Section (c) to the Cottonwood access. Supply boats which do not carry clients are exempt from these restrictions.	5	6
<b>(SN1) Snake River</b> - Henry's Fork confluence downstream to Gem State Power Plant	3	3
<b>(SN2) Snake River</b> - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3

# **RESOURCE & CONSERVATION**

## **OUTFITTERS AND GUIDES LICENSING BOARD** **Rules of the Outfitters and Guides Licensing Board**

**Docket No. 25-0101-0501**  
**PENDING RULE**

River/Section	Maximum No. Power	Maximum No. Float
<b>(SN3) Snake River</b> - American Falls Dam to Massacre Rocks State Park	3	3
<b>(SN4) Snake River</b> - Massacre Rocks State Park to Milner Dam	3	3
<b>* (SN5) Snake River</b> - Milner Dam to Star Falls	none	3
<b>* (SN6) Snake River</b> - Star Falls to Twin Falls	none	5
<b>(SN7) Snake River</b> - Twin Falls to Lower Salmon Falls Dam	3	3
<b>(SN8) Snake River</b> - Lower Salmon Falls Dam to Bliss Dam	3	5
<b>(SN9) Snake River</b> - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
<b>(SN10) Snake River</b> - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
<b>(SN11) Snake River</b> - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
<b>* (SN12) Snake River</b> - Hells Canyon Dam to Pittsburg Landing	18	15
<b>* (SN13) Snake River</b> - Hells Canyon Dam to Pittsburg Landing, (two (2) one-day float trips only)	none	2
<b>(SN14) Snake River</b> - Pittsburg Landing to Heller Bar or Lewiston	19	15
<b>(SN15) Snake River</b> - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters)	
<b>(SJ1) St. Joe River</b> - Spruce Tree Campground to St Joe City Bridge. St. Joe City Bridge to Lake Coeur d'Alene	none 2	2 none

## RESOURCE & CONSERVATION

### OUTFITTERS AND GUIDES LICENSING BOARD Rules of the Outfitters and Guides Licensing Board

**Docket No. 25-0101-0501**  
**PENDING RULE**

River/Section	Maximum No. Power	Maximum No. Float
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, (motors not to exceed 10 hp)	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, (motors not to exceed 10 hp)	6 outfitters for either power or float or combination thereof	
(TE3) Teton River - Harrop Bridge to confluence with Snake River, (motors not to exceed 10 hp)	none	5

\* Classified rivers

## Floatboat and powerboat outfitters on these sections shall be considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but shall not include overnight activities. Conflicts with land-based outfitters shall be handled on a case-by-case basis. (3-20-04)( )

**024. Other -- Table.** The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho shall be open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2

## ***RESOURCE & CONSERVATION***

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**OUTFITTERS AND GUIDES LICENSING BOARD**  
***Rules of the Outfitters and Guides Licensing Board***

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***Docket No. 25-0101-0501***  
***PENDING RULE***

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

**035. Other Lakes and Reservoirs.** All other Idaho lakes and reservoirs shall be limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

# ***RESOURCE & CONSERVATION***

## **IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

### **26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT OF PARKS AND RECREATION RECREATIONAL PROGRAM GRANT FUNDS**

**DOCKET NO. 26-0131-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5221(1), and 67-4223(a) Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**Chapter 31 establishes rules which govern the administration of IDPR state and federal grant funds. Periodically it is necessary, and desirable, to modify and update the rules to ensure that IDPR manages its grant programs in a consistent manner. The proposed changes consist mainly of housekeeping measures to clarify existing terminologies, remove outdated definitions, and eliminate superfluous references.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 537 through 548.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Dean Sangrey, 208.334.4180, ext 250, dsangrey@idpr.state.id.us.

DATED this 15th day of November, 2005.

Dean Sangrey  
Division Administrator, Operations  
Idaho Department of Parks and Recreation

# ***RESOURCE & CONSERVATION***

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**DEPARTMENT OF PARKS AND RECREATION**  
**Parks and Recreation Recreational Program Grant Funds**

**Docket No. 26-0131-0501**  
**PENDING RULE**

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5657 Warm Springs Ave.  
Boise, ID 83716  
P. O. Box 83720  
Boise, ID 83720-0065  
Phone: 208-334-4180 Fax: 208-334-3741

## ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4223(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Chapter 31 establishes rules which govern the administration of IDPR state and federal grant funds. Periodically it is necessary, and desirable, to modify and update the rules to ensure that IDPR manages its grant programs in a consistent manner. The proposed changes consist mainly of housekeeping measures to clarify existing terminologies, remove outdated definitions, and eliminate superfluous references.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public meetings will be scheduled prior to the upcoming legislative session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dean Sangrey, 208.334.4180, ext 250, dsangrey@idpr.state.id.us.

Anyone may submit written comments regarding this proposed rulemaking. All written comments



# RESOURCE & CONSERVATION

**DEPARTMENT OF PARKS AND RECREATION**  
**Parks and Recreation Recreational Program Grant Funds**

**Docket No. 26-0131-0501**  
**PENDING RULE**

must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 6th day of September, 2005.

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT OF PARKS AND RECREATION ~~RECREATIONAL PROGRAM~~ STATE AND FEDERAL GRANT FUNDS

#### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter shall be cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.31, "Rules Governing the Administration of the Idaho Department of Parks and Recreation ~~Recreational Program~~ State and Federal Grant Funds".  
(7-1-99)( )

**02. Scope.** This chapter establishes procedures for ~~the~~ grants administration of the Off-Road Motor Vehicle Account, the Recreational Vehicle Account, ~~the Boat Safety Account~~, the Waterways Improvement Fund, ~~the Cross-Country Skiing Recreation Account~~, the State Trust for Outdoor Recreation Enhancement, ~~and~~ the Recreational Trails ~~Fund, including~~ Program, the Motorbike Recreation Account, the Cutthroat License Plate Fund, and the Recreational Road and Bridge Fund. This chapter includes requirements for project application, eligibility, review, award and management.  
(7-1-99)( )

#### 002. WRITTEN INTERPRETATIONS.

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 150. In addition, ~~participation manuals~~ Idaho Department of Parks and Recreation Grant Guidelines prepared and maintained by the Department provide additional interpretation of these rules. These documents are available for public inspection and copying in the central office of the agency.  
(7-1-99)( )

#### 003. ADMINISTRATIVE APPEALS.

Any applicant who may be adversely affected by a final decision, ruling, or direction of the Department may seek relief as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 250.  
(7-1-99)( )

#### 004. PUBLIC RECORDS.

The records relative to any ~~recreational program~~ grant project are public records, and are to be controlled as outlined under IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 300.  
(7-1-99)( )

# RESOURCE & CONSERVATION

DEPARTMENT OF PARKS AND RECREATION  
Parks and Recreation Recreational Program Grant Funds

Docket No. 26-0131-0501  
PENDING RULE

## (BREAK IN CONTINUITY OF SECTIONS)

### 010. DEFINITIONS.

As used in this chapter:

(7-1-99)

**01. Applicant.** An public IDPR approved entity, ~~user group, organization, or individual~~ that identifies a need for a project, supplies initial support data, and applies for a ~~recreational~~ program grant through the Department. (7-1-99)(\_\_\_\_)

**02. Board.** The Idaho Park and Recreation Board.

(7-1-99)

**03. ~~Boating Law Administrator.~~** ~~The staff administrator of the Waterways Improvement Fund and the Boat Safety Account.~~ (7-1-99)

**04. ~~Boat Safety Account.~~** ~~Those grant funds given to the department by the U.S. Coast Guard, and which originate from the Federal Aquatic Resources Trust Fund, Boat Safety Account.~~ (7-1-99)

**05. ~~Boat Safety Program.~~** ~~The subdivision of the department responsible for administering the Boat Safety Account.~~ (7-1-99)

**063. County Waterways Committee.** Those committees created by Section 67-7012, Idaho Code, whose purpose is to advise the county on the maintenance and improvements of waterways and expenditures of moneys deposited in the county vessel account. (7-1-99)(\_\_\_\_)

**04. Cutthroat License Plate Fund (CLP).** That portion of the Park and Recreation fund created in Section 67-4225, Idaho Code, received from the sale of cutthroat wildlife license plates. (\_\_\_\_)

**07. ~~Cross Country Skiing Recreation Account.~~** ~~That account established by Section 67-7117, Idaho Code.~~ (7-1-99)

**08. ~~Cross Country Skiing Recreation Program.~~** ~~The subdivision of the department responsible for administering the Cross Country Skiing Recreation Account.~~ (7-1-99)

**095. Department.** The Idaho Department of Parks and Recreation.

(7-1-99)

**106. Director.** The chief administrator of the Department, or the designee of the Director. (7-1-99)

**107. Grant.** A grant from ~~the Off Road Motor Vehicle Account, Recreation Vehicle Account, Waterways Improvement Fund, Boat Safety Account, Recreational Trails Fund, Cross-Country Skiing Recreation Account, or State Trust for Outdoor Recreation Enhancement~~ programs or funds as described in Section 001.02 of this chapter. (7-1-99)(\_\_\_\_)

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**08. Grantee.** An applicant who receives a grant from the Department for the programs or funds as described in Section 001.02. ( )

**09. IDPR Grant Guidelines.** A compilation of state procedures, rules, and instructions assembled in manual form for dissemination to the potential applicant and public entities that may wish to apply for grants. ( )

**120. Management.** The actions taken in exercising control over, regulating the use, operation, and maintenance of facilities or programs. (7-1-99)

**131. Motorbike Recreation (MBR) ~~Fund~~ Account.** This ~~fund~~ account, created by Section 67-71226, Idaho Code, may be used for all of the purposes outlined in Subsection 010.141 of this chapter and rider education programs. When reference is made to the ORMV Account in this chapter, it is intended to include the MBR Fund the same as if it was specifically denoted as such except enforcement of laws and rules governing the use of off-road motor vehicles in Idaho. (7-1-99)( )

**142. Off-Road Motor Vehicle (ORMV) Account.** That account created by Section 57-1901, Idaho Code. These moneys may be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. (7-1-99)

**153. Off-Road Motor Vehicle (ORMV) Account Advisory Committee.** A nine (9) member committee appointed by the Board to advise the Department on matters involving ORMV Fund grants. (7-1-99)

**~~16. Off-Road Motor Vehicle (ORMV) Program.~~** ~~The subdivision of the department responsible for administering the ORMV Account.~~ (7-1-99)

**~~17. Participation Manual.~~** ~~A compilation of state procedures, rules, and instructions assembled in manual form for dissemination to the potential applicant and public entities that may wish to participate in recreational program grants.~~ (7-1-99)

**184. Project.** An effort to comply with Idaho statutes and rules for which ~~recreational program~~ grant funds shall be used to assist the ~~applicant~~ grantee in achieving the objectives of the ~~recreational~~ grant programs. (7-1-99)( )

**195. Project Manager.** Any individual who has the principle responsibility for the ongoing management of projects. (7-1-99)

**2016. Public Entity.** The state, federal or local government or a subdivision thereof, or an Indian tribe. (7-1-99)

**~~21. Recreational Program.~~** ~~The Off-Road Motor Vehicle Program, Recreational Vehicle Program, Waterways Improvement Fund Program, Boat Safety Program, Cross-Country Skiing Recreation Program, Snowmobile Program, Recreational Trails Program, State Trust for Outdoor Recreation Enhancement Program, and the Land & Water Conservation Fund Program~~

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*administered by the department.*

(7-1-99)

~~**22. Recreational Program Managers.** The Trails Program Supervisor, Recreational Vehicle Program Coordinator and Boating Law Administrator.~~

(7-1-99)

**17. Recreational Road and Bridge Fund (RRBF).** That portion of the park and recreation capital improvement account designated for grants to improve roads, bridges, and parking lots in or leading to park and recreation areas of the state. ( )

~~**2318. Recreational Trails Fund (Recreational Trails Program) (RTFP).** The account created by the Transportation Equity Act for the 21st Century (Section 1112). This fund may be used for maintenance and restoration of existing recreational trails, development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails, purchase and lease of recreational trail construction equipment, construction of new recreational trails, acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors, and the operation of education programs to promote safety and environmental protection as those objectives relate to the use of recreational trails.~~

(7-1-99)( )

~~**2419. Recreational Trails Fund Program (RTFP) Advisory Committee.** A ten (10) member advisory committee appointed by the Board to advise the Department on matters related to the Recreational Trails Fund Program.~~

(7-1-99)( )

**250. Recreational Vehicle (RV) Account.** That account created by Section 49-448, Idaho Code. The moneys may be used for the acquisition, lease, development, improvement, and maintenance of facilities designed to promote the health, safety, and enjoyment of recreational vehicle users.

(7-1-99)

**261. Recreational Vehicle (RV) Advisory Committee.** A six (6) member committee appointed by the Board to advise the Board and Department on matters involving the RV Account.

(7-1-99)

~~**27. Recreational Vehicle (RV) Coordinator.** The staff administrator of the Recreational Vehicle Program.~~

(7-1-99)

~~**28. Recreational Vehicle (RV) Program.** The subdivision of the department responsible for administering the RV Account.~~

(7-1-99)

**292. Staff.** Any individual employed by the Department.

(7-1-99)

**23. State and Federal Grant Manager.** The Department administrator in charge of State and Federal grant programs. ( )

**24. State and Federal Grant Program.** That section of the Department responsible for the administration of state and federal grant programs. ( )

~~**3025. State Trust for Outdoor Recreation Enhancement (STORE).** The recreation account created by Section 67-4247, Idaho Code.~~

(7-1-99)

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~~31. Trails Program.~~ The subdivision of the Department responsible for administering the ORMV Program, Motorbike Program, Recreational Trails Program, Snowmobile Program, Non-Motorized Trails Program, and the Cross-Country Skiing Recreation Program. (7-1-99)

~~32. Trails Program Supervisor.~~ The staff administrator of the Trails Program. (7-1-99)

~~3326.~~ **Waterways Improvement Fund (WIF).** That fund created by Section 57-1501, Idaho Code. These moneys may be used for the protection and promotion of safety, waterways improvements, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. No such improvements shall be constructed in any county of the state without the approval of the county waterways committee of the plan for such improvements. (7-1-99)( )

~~3427.~~ **Waterways Improvement Fund Grant Advisory Committee.** A six (6) member committee appointed by the Board to advise the Department on matters relating to Waterways Improvement Fund grants. (7-1-99)

011. -- 049. (RESERVED).

### 050. GENERAL PROVISIONS OF THE ~~Recreational~~ STATE AND FEDERAL GRANT PROGRAMS.

It is the intent of the Department, through the ~~recreational~~ State and Federal Grant programs, to provide funds and planning assistance to entities for the acquisition, lease, development, improvement and maintenance of facilities and equipment to promote the health, safety, enjoyment and general welfare of recreational users in the state of Idaho. (7-1-99)( )

051. -- 074. (RESERVED).

### 075. ELIGIBLE APPLICANTS.

~~Applicants eligible for recreational program fund grants are as follows:~~ Public entities as defined in Subsection 010.16, and sponsors as defined by Federal Highway Administration Recreation Trail Program Interim Guidance, are eligible to apply for and receive grants as described on Subsection 001.02 of this chapter. (7-1-99)( )

~~01. Boat Safety Account.~~ Public entities as defined in Section 010 of this chapter, and recognized national or statewide boating safety organizations that can demonstrate evidence of responsibility in providing public boating safety services. Federal funds shall not be used as match for Boat Safety Account grants. (7-1-99)

~~02. Cross-Country Skiing Recreation Account.~~ Public entities as defined in Section 010 of this chapter and nonprofit entities. (7-1-99)

~~03. Off-Road Motor Vehicle Account.~~ Public entities as defined in Section 010 of this chapter, and private groups, organizations or individuals which provide evidence of its ability to implement or operate and maintain the project following the completion of the project. (7-1-99)

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~~04. **Recreational Trails Fund.** Public entities as defined in Section 010 of this chapter, and private groups, organizations or individuals which provide evidence of its ability to implement or operate and maintain the project following the completion of the project. Federal funds shall not be used as match for RTF grants except when specifically allowed by federal law.~~ (7-1-99)

~~05. **Recreational Vehicle Account.** Public entities as defined in Section 010 of this chapter.~~ (7-1-99)

~~06. **State Trust for Outdoor Recreation Enhancement Fund.** The state of Idaho and any of its subdivisions legally authorized to provide public recreation facilities.~~ (7-1-99)

~~07. **Waterways Improvement Fund.** Public entities as defined in Section 010 of this chapter. All applications for projects involving the construction or improvements of physical facilities shall be approved by the county waterways committee or the county commissioners.~~ (7-1-99)

076. -- 099. (RESERVED).

### 100. APPLICATION PROCEDURE.

All forms and documents required by these rules and the Department shall be completed and submitted according to these rules in order for a grant application to be considered for approval. (7-1-99)

**01. Forms.** To be considered for a grant, an applicant must file with the Department a completed grant application form and other documentation specified in the participation manual IDPR Grant Guidelines, all of which shall have original signatures. ~~Except for Boat Safety Account block grants, a~~ An applicant must file with the Department a completed grant agreement form, with original signatures, within ~~thirty sixty~~ (360) calendar days of written notification of grant approval. ~~An applicant for a Boat Safety Account block grant shall sign a Memorandum of Understanding with the director at least thirty (30) days prior to the beginning of the block grant award period.~~ The application, and grant agreement ~~or Memorandum of Understanding~~ forms shall be provided to the applicant by the Department. (7-1-99)(\_\_\_\_)

**02. Review.** The applicant or applicant's representative may review the project and all associated documentation with the Department prior to submitting the application to ensure the project and documentation meet the criteria of the ~~recreational program~~ State and Federal grant program. When possible, Department staff may perform an on-site visit to the project site for preliminary fact finding and to evaluate the viability and eligibility of the project. (7-1-99)(\_\_\_\_)

**03. Public Comment.** The applicant shall submit to the Department proof of public comment regarding the project. Proof of public comment ~~shall~~ may include the results of public meetings, scoping of National Environmental Policy Act (NEPA) processes, individual contacts with recreationists and others that may be affected by the project, newspaper articles and/or other media releases which describe the project and request public input. (7-1-99)(\_\_\_\_)

**04. Deadline.** The deadline for grant applications ~~to recreational program grants~~ shall be established by the Department. The Department shall announce the availability of funds at

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least sixty (60) days prior to the deadline date for receipt of applications. (7-1-99)( )

101. -- 149. (RESERVED).

### 150. ELIGIBILITY AND PRIORITY RATING OF PROJECTS.

Eligibility of all projects or applicants shall be determined by the ~~appropriate recreational program manager~~ State and Federal Grant Manager who shall consider relevant rules, ~~and~~ statutes and past performance of the applicant. (7-1-99)( )

**01. Pre-Application Activities.** Projects, or any part thereof, either paid for by the ~~applicant~~ grantee or completed prior to the grant application deadline date established by the Department, shall be ineligible for ~~Recreational Vehicle Account and Waterways Improvement Fund~~ grant funding or to be considered as match. However, costs for design and engineering incurred within one (1) year prior to the ~~date awarded~~ application deadline date may be considered as match, provided they are listed as a scope element on the application. Recreational Trail Program projects, or any part thereof, completed prior to the execution of the project agreement shall be ineligible for grant funding or to be considered as match. (7-1-99)( )

**02. Priority Rating Criteria.** The Department and/or appropriate advisory committee shall establish project ~~priorities~~ rankings by rating each eligible project using criteria established by the ~~department~~ Board. ~~All eligible projects shall be rated by the committee.~~ Specific evaluation criteria ~~for each recreational program~~ shall be listed in ~~their associated participation manual and may include:~~ the IDPR Grant Guidelines. (7-1-99)( )

- ~~a.~~ *Conformance with legal requirements;* (7-1-99)
- ~~b.~~ *Compliance with program objectives;* (7-1-99)
- ~~c.~~ *Accuracy of estimated costs of the project;* (7-1-99)
- ~~d.~~ *Potential of the project to enhance the health, safety, enjoyment and general welfare of recreational users in Idaho;* (7-1-99)
- ~~e.~~ *History of prior recreational program grant management by the applicant;* (7-1-99)
- ~~f.~~ *Adequacy of project design or construction, if applicable;* (7-1-99)
- ~~g.~~ *The applicant's level of matching share provided for the project;* (7-1-99)
- ~~h.~~ *Suitability of the project for the proposed site, use and location; and* (7-1-99)
- ~~i.~~ *Grant amount requested compared to the amount of funds available.* (7-1-99)

151. -- 174. (RESERVED).

### 175. PROJECT TIME PERIOD.

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**01. Grant Cycle.** Applications for ORMV Fund, RV Account, WIF, *Motorbike Recreation Account (MRB)*, *Cutthroat License Plate Fund, (CLP)*, *Recreational Road and Bridge Fund (RRBF)*, or STORE ~~projects~~ shall be considered at least once each state fiscal year (July 1 through June 30) dependant upon adequate funding availability. Applications for RTFP ~~or Boat Safety Account~~ projects shall be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. (7-1-99)( )

**02. Expenditure of Grant Funds.** Except as herein provided, the ~~applicant~~ grantee shall have only the designated state or federal fiscal year or years to expend ~~recreational program~~ grant funds. If the ~~recreational program~~ grant funds are not expended within the designated fiscal year or years, the grant shall be revoked unless the applicant requests and receives an extension of time from the Department. (7-1-99)( )

**03. Requests for Extension.** A written request for an extension of the project period shall be received by the Department prior to the end of the project period. The ~~appropriate recreational program~~ State and Federal Grant Manager shall make the final determination of extensions. No project extension shall be granted for more than one (1) year, however, project extensions may be granted in consecutive years. (7-1-99)( )

176. -- 199. (RESERVED).

### 200. AUTHORITY FOR FUNDING APPROVAL.

Projects ~~of less than~~ up to and including twenty thousand dollars (\$20,000) may be approved by the Director. Projects ~~of over~~ twenty thousand dollars (\$20,000) ~~or more~~ shall be presented to the Board for approval. (7-1-99)( )

**01. Minor Cost Increases.** Cost increases of fifteen percent (15%) or less of the original grant amount may be approved by the Director, ~~except such increases that bring the initial project cost from less than twenty thousand dollars (\$20,000) to twenty thousand dollars (\$20,000) or more shall be presented to the board for approval~~. (7-1-99)( )

**02. Major Cost Increases.** Cost increases of more than fifteen percent (15%) of the original grant amount shall require the project be presented as a totally new proposal and compete through the general application process described herein. Should the revised project not receive approval for cost increase grant funding, the ~~applicant~~ grantee shall be required to complete the scope of the project as originally proposed at its expense or return any project grant funds paid to it so that the project may be canceled and the grant funds reallocated. (7-1-99)( )

**03. Waterways Improvement Fund Grant Limit.** The total sum of ~~Waterways Improvement Fund~~ WIF grant funds approved to be used in any one (1) county may not exceed thirty percent (30%) of the total WIF grant funds approved to be used statewide in any state fiscal year. (7-1-99)( )

201. -- 249. (RESERVED).

### 250. DISBURSEMENT OF FUNDS.

**01. Allowable Costs.** Applicable Office of Management and Budget (OMB) cost



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principles, program regulations, and the terms of grant agreements shall be followed in determining the reasonableness and allowability of costs. (7-1-99)

**02. Documentation and System of Internal Controls.** The ~~applicant~~ grantee shall maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs and match by grant or project. Accounting records shall be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. (7-1-99)( )

**03. ~~Documentation for~~ Match.** Match is the donation of cash, product or service used to complete the grant project as approved. The following types of match may be used: (7-1-99)( )

**a.** Force account labor and equipment, i.e., the use of the grantee's staff (labor) and equipment costs. Documentation of force account shall include: the name of each worker, dates worked, hourly rate of pay, number of hours worked, and the total cost by each person. Documentation of equipment costs shall include the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. (7-1-99)

**b.** Donated material that is used as match shall be reasonable and cannot exceed the costs of the materials to the donor or the market price at the time they are charged to the project, whichever is less. A detailed invoice marked "donation" or a letter from the donor shall be used as documentation of donated material. (7-1-99)

**c.** Donated Contract Labor. When an employer, other than the grantee, furnishes the services of an employee, these services are valued at the employee's regular rate of pay (not including fringe benefits and overhead costs). These services shall be for the same skill for which the employees is normally paid. Documentation shall include the employee's name, dates worked, hourly rate, number of hours worked, and total cost. (7-1-99)

**d.** Rates for Volunteers. Skilled and unskilled shall be consistent with the rate regularly paid by the grantee for similar work or shall be consistent with those paid for similar work in the grantee's labor market. If the volunteer is professionally skilled and employed in the work he is performing on the project, the grantee may use the individual's normal wage rate. If the volunteer is unskilled and not professionally employed in the work he is performing the grantee shall value the donated labor at the national minimum wage rate. Documentation shall include the volunteer's name, date worked, hourly rate, number of hours worked, and total cost. (7-1-99)

**04. Disbursement of Funds.** Except as provided in Subsection 250.05 herein, the Department shall authorize disbursement of funds allocated to a project on a reimbursement basis. This means that the ~~applicant~~ grantee shall initially pay all project costs and then seek reimbursement through the Department. (7-1-99)( )

**a.** General. Grantees shall use only the forms specified in this section, and such supplementary or other forms as may from time to time be authorized by the Department. (7-1-99)

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**b.** Request for Reimbursement. ~~The grantee shall~~ Complete an Idaho Department of Parks & Recreation (IDPR), Request for Reimbursement/Close-out Report form. Sign certifying that the data is correct and submit the form to the ~~applicable recreation program manager~~ State and Federal grant program with an original signature. (7-1-99)( )

~~**c.** Request for Advance. Complete and sign the IDPR Request for Advance form and submit with written justification identifying the need for an advance to the applicable recreation program manager.~~ (7-1-99)

~~**d.**~~ **c.** Extend the Due Date. The Department may extend the due date of any financial report upon receiving a justified request from a grantee. (7-1-99)

~~**e.**~~ **d.** Accounting Basis. Each grantee shall report program outlays and program income on a cash or accrual basis pursuant to Generally Accepted Accounting Principles. (7-1-99)

**05. Cash Advances.** When approved for an advance grantees ~~and subgrantees~~ shall be paid in advance no sooner than thirty (30) days prior to project start, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee ~~or subgrantee.~~ (7-1-99)( )

**a.** Requesting an Advance. A disbursement of funds may be made on an advance basis by submitting an IDPR Request for Advancement form provided by ~~IDPR~~ the Department. Written Justification for an advance is required unless there is a Memorandum of Understanding or Collection Agreement on file. (7-1-99)( )

**b.** Interest Earned on Advances. Grantees and subgrantees shall promptly, at grant close-out, remit interest earned on advances to the Department. (7-1-99)

**06. ~~Block Grants~~ Reporting.** Each ~~applicant~~ grantee receiving ~~Recreational Program block~~ grant funds that require reporting shall remit a complete activities report to the ~~boating law administrator~~ Department no later than January 31 of each year which shall cover the preceding calendar year and shall be on forms provided by the Department. Failure to report or poor performance indicated by the report may disqualify grantee from future grant application. (7-1-99)( )

**07. Grant Closeouts.** Within forty-five (45) days after the completion of the ~~grant project,~~ the grantee shall submit an IDPR Request for Reimbursement/Close-out form ~~and other required documentation~~ and immediately refund to the Department any balance of unobligated cash advanced and interest earned ~~that is not authorized to be retained for use on other grants.~~ (7-1-99)( )

**08. Record Retention.** The ~~applicant~~ grantee shall retain all financial information referenced in these rules regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. (7-1-99)( )

**09. Audit Authority.** The Department shall have the right of access to any pertinent books, documents, papers, or other records of grantees which are pertinent to the grant, in order to

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make audits, examinations, excerpts, and transcripts. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the Department. (7-1-99)

**10. Contingency Fund.** The Department may retain grant funds from each recreational program grant account for the exclusive purpose of providing facilities or services. (7-1-99)

**251. -- 299. (RESERVED).**

**300. ~~Applicant~~ Grantee OBLIGATIONS.**

**01. Project Completion.** Except as herein proved, upon approval of a grant application ~~or Memorandum of Understanding~~, the ~~applicant~~ grantee shall be obligated to complete all elements of a project as described on the approved ~~recreational program~~ grant application, grant agreement, or approved amendment, ~~or Memorandum of Understanding~~. (7-1-99)(\_\_\_\_)

**02. Project Management.** Except as herein provided, upon approval of a grant application ~~or Memorandum of Understanding~~, the ~~applicant~~ grantee shall ensure adequate management of the project as specified in the approved ~~recreational program~~ grant application, or grant agreement ~~or Memorandum of Understanding~~. (7-1-99)(\_\_\_\_)

**03. Grant Modification.** Only for good cause, and upon the submission of detailed justification shown in writing and approval by the ~~appropriate recreational program~~ State and Federal Grant Manager may the terms ~~of the and~~ obligations of the ~~recreational program~~ grant application, or grant agreement ~~or Memorandum of Understanding~~ be modified. (7-1-99)(\_\_\_\_)

**04. Maintenance and Operation.** Real property, physical facilities and equipment funded by a ~~recreational program~~ grant ~~fund~~ shall be maintained and operated in the condition or state equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. (7-1-99)(\_\_\_\_)

**05. Public Use/Nondiscrimination.** Physical facilities and real property purchased in whole or in part with ~~recreational program~~ grant moneys shall be available for public use regardless of race, color, religion, national origin, gender, age, or disability. Facilities constructed with ~~recreational program~~ grant moneys shall meet the requirements as set by the Americans with Disabilities Act Guidelines. (7-1-99)(\_\_\_\_)

**06. Fees And Donations.** Except as herein provided, fees may be charged or donations subscribed for the use of or access to facilities or real property developed or purchased with ~~recreational program~~ grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property with the approval of the Board. Fees may be charged or donations subscribed for special events of limited duration at the facility when approved by the ~~appropriate recreational program manager~~ Department. (7-1-99)(\_\_\_\_)

**07. Acknowledgment of Funding Assistance.** ~~Applicants~~ Grantee shall post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging

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funding assistance from the appropriate ~~recreational program~~ grant fund and the Department ~~immediately~~ upon ~~completion~~ start of the project or purchase of equipment. (7-1-99)( )

**08. Notice Of Registration Requirements.** Off-Road Motor Vehicle Account project applicants and sponsors shall be responsible for posting a written notice of the requirement of applicable registration requirements and enforcing such requirements for special events as well as general use. (7-1-99)

**09. Project Liability.** ~~Applicants~~ Grantees, through a signed agreement, shall assume all project liability and hold the Department harmless. (7-1-99)( )

**10. Purchase and Bidding Requirements.** The ~~applicant~~ grantee shall follow all local, state and federal laws pertaining to the expenditure of ~~recreational program grant~~ public funds. (7-1-99)( )

**11. Permits.** The ~~applicant~~ grantee shall legally acquire all required local, state and federal permits for the construction or development of the project before ~~recreational program~~ grant funds shall be expended. Construction shall comply with the then current codes and standards as set by the Uniform Building Code, Uniform Plumbing Code, and the National Electrical Code. (7-1-99)( )

**12. Failure to Comply.** Failure by the ~~applicant or department~~ grantee to comply with such terms and obligations as set forth in the approved ~~recreation program~~ grant application, ~~or~~ grant agreement ~~or Memorandum of Understanding~~ shall result in the immediate revocation of an approved grant or shall constitute a conversion pursuant to Section 350 of this chapter, as applicable. (7-1-99)( )

**301. -- 349. (RESERVED).**

### **350. PROJECT CONVERSIONS.**

No ~~project funded by recreational program~~ grant funds funded project shall, without the prior written approval of the ~~director~~ Board, be converted to uses other than for the authorized purposes specified in the original ~~recreational program~~ grant application, ~~or~~ grant agreement, ~~or~~ ~~Memorandum of Understanding~~. (7-1-99)( )

**01. Approval of a Conversion.** The ~~department~~ Board shall approve a conversion only when the ~~recreational program~~ grant moneys spent on the project can be returned to the appropriate ~~recreational program account~~ grant fund or the ~~applicant~~ grantee can provide an immediate substitution of other projects of at least equal current fair market value and of reasonably equivalent recreational usefulness and location. ~~The director has authority to disapprove a conversion request or to reject proposed project substitutions.~~ (7-1-99)( )

**02. Resolving a Conversion.** If there is a project conversion, the ~~applicant~~ grantee is responsible for repaying the appropriate ~~recreational program grant~~ fund ~~account~~ an amount determined by investment amortization through use, project life expectancy, and depreciation or appreciation of the facilities or equipment. (7-1-99)( )

**03. Conversion Requests.** Project conversion requests shall be in writing by the

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*applicant grantee* prior to any conversion attempts. (7-1-99)

351. -- 399. (RESERVED).

### 400. RESPONSIBILITY FOR EQUIPMENT.

Motorized equipment purchased with grant funds shall become property of the grantee. Such units of motorized equipment shall be subject to Subsection 250.06 and Section 350 of this chapter.

( )

~~01. **Totally Grant Funded.** Single units of equipment with a current fair market value of one thousand dollars (\$1,000) or more as determined by the department, which are purchased wholly with recreational program grant funds, shall remain the property of the department to be leased to the applicant through a lease contract. If the equipment is being underutilized, misused, or used for purposes other than the original grant purposes it may be reclaimed by the department at the expiration or cancellation of the lease or with thirty (30) days written notice.~~

(7-1-99)

~~a. Equipment which is the property of the department shall be leased to the project applicant for the length of time determined by the appropriate recreational program manager as necessary to accomplish the project under the parameters of project viability, equipment usability and user needs. Either party may cancel the lease by providing the other party with at least thirty (30) days written notice.~~

(7-1-99)

~~b. Equipment lease price or consideration shall be negotiated and determined prior to project approval and shall be commensurate with the cost/benefit ratio of services provided the recreational program user group which it serves.~~

(7-1-99)

~~c. A project applicant shall bear the full responsibility for damage to or destruction of project facilities and equipment through its own means or applicable insurance.~~

(7-1-99)

~~02. **Partially Grant Funded.** Single units of equipment with a current fair market value of one thousand dollars (\$1,000) or more as determined by the department, which are purchased only partially (less than one hundred percent (100%)) with recreational program grant funds, shall become the property of the applicant. Such units of equipment shall be subject to Section 350 of this chapter.~~

(7-1-99)

~~03. **Minor Purchases.** Single units of equipment with a current fair market value of less than one thousand dollars (\$1,000) as determined by the department, which are purchased wholly or in part with recreational program grant funds shall become the property of the applicant. Such units or equipment shall be subject to Section 350 of this chapter.~~

(7-1-99)

401. -- 449. (RESERVED).

### 450. REAL PROPERTY.

**01. Appraisals.** A real estate appraisal is required for all real property to be acquired with *recreational program* grant funds. All appraisals shall be prepared according to Department procedures. The appraisal shall be paid for by the *applicant grantee*, but may be included as part

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of eligible project costs. The selection of the appraiser shall be approved by the Department.

(7-1-99)( )

**02. Appraisal Review.** The Department shall review appraisals as necessary. Any appraisal report which does not meet content requirements or use correct analysis procedures shall be corrected to the satisfaction of the Department. All costs shall be covered by the ~~applicant~~ grantee.

(7-1-99)( )

**03. Negotiated Price.** An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price which is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the ~~applicant~~ grantee believes the ~~negotiating~~ negotiated price is a better indication of market value, yet is higher than the appraised value, a detailed statement of this difference shall be submitted to the Department.

(7-1-99)( )

**04. Adequate Title and Public Access.** The ~~applicant~~ grantee shall have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term “adequate control and tenure” of real property means a lease or an easement that provides the ~~applicant~~ grantee sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the ~~appropriate recreational program manager~~ Department for a shorter term. The ~~applicant~~ grantee shall list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the ~~applicant~~ grantee shall describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the ~~applicant~~ grantee shall be responsible for conversion of the project as described in Section 350 of this chapter.

(7-1-99)( )

**05. Limitations on Use.** Property rights obtained with ~~recreational program~~ grant funds shall be free of all reservations or encumbrances which would limit the use of the site disproportionate to the public benefit.

(7-1-99)( )

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## **IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION**

### **26.01.37 - RULES GOVERNING TEST PROCEDURES AND INSTRUMENTS FOR NOISE ABATEMENT OF OFF HIGHWAY VEHICLES**

**DOCKET NO. 26-0137-0501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5221(1), and 67-4223(a) Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Chapter 37 addresses rules governing test procedures and instruments for noise abatement of off highway vehicles. The Chapter also includes an outdated definition for all terrain vehicle (ATV). This amendment will provide consistency with current Idaho Code and other IDAPA reference.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 5, 2005 Idaho Administrative Bulletin, Vol. 05-10, pages 549 and 550.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Dean Sangrey, 208.334.4180, ext 250, dsangrey@idpr.state.id.us.

DATED this 15th day of November, 2005.

Dean Sangrey  
Division Administrator, Operations  
Idaho Department of Parks and Recreation  
5657 Warm Springs Ave.  
Boise, ID 83716  
P. O. Box 83720  
Boise, ID 83720-0065  
Phone: 208-334-4180 Fax: 208-334-3741

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DEPARTMENT OF PARKS AND RECREATION

Docket No. 26-0137-0501

Test Procedures & Instruments for Noise Abatement of OHVs

PENDING RULE

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## *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-4223(a), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Chapter 37 addresses rules governing test procedures and instruments for noise abatement of off highway vehicles. The Chapter also includes an outdated definition for all terrain vehicle (ATV). This amendment will provide consistency with current Idaho Code and other IDAPA references.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it was determined there was insufficient time from the formal approval of the proposed rules by the Idaho Park and Recreation Board. Public meetings will be scheduled prior to the upcoming legislative session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dean Sangrey, 208.334.4180, ext 250, dsangrey@idpr.state.id.us.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2005.

DATED this 20th day of September, 2005.

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE



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## DEPARTMENT OF PARKS AND RECREATION

### Test Procedures & Instruments for Noise Abatement of OHVs

Docket No. 26-0137-0501

PENDING RULE

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#### 010. DEFINITIONS.

As used in this chapter:

(7-1-94)

**01. All Terrain Vehicle (ATV).** Any recreation vehicle with ~~two~~ three (23) or more tires, under ~~six~~ eight hundred fifty (6850) pounds and less than forty-eight (48) inches in width, having a wheelbase of sixty-one (61) inches or less, traveling on low pressure tires, less than ~~five~~ ten (510) pounds per square inch (psi); ~~and designed to be ridden by one (1) person.~~

(7-1-94)(\_\_\_\_)

**02. A-Weighting Scale.** A sound filtering system contained in a sound meter which adjusts (weights) the incoming sound energy to approximate human hearing.

(7-1-94)

**03. Calibrator.** A device used to standardize the reading of a sound level meter.

(7-1-94)

**04. CC.** The displacement (size) of an engine in cubic centimeters. The cc's of an engine refers to the piston displacement or engine size.

(7-1-94)

**05. Db Or Decibel.** A unit used to measure the amplitude of sounds. As a sound measured in decibels increases, so does its loudness.

(7-1-94)

**06. Off Highway Vehicle (OHV).** Any ATV or motorbike as defined in Section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes. These vehicles, together with others not covered by these rules, are sometimes commonly known as off-road vehicles or ORMV's.

(7-1-94)

**07. Operator.** Any person who is in physical control of an OHV.

(7-1-94)

**08. Red-Line Speed.** The lowest numerical engine speed included in the red zone on the OHV tachometer or prescribed by the manufacturer as compiled in the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual" published by the Motorcycle Industry Council, Inc.

(7-1-94)

**09. Revolutions Per Minute (RPM).** The number of times the crankshaft of an engine revolves in one (1) minute.

(7-1-94)

**10. Sound Level Meter.** An instrument used for measuring sound levels, which includes a microphone, an amplifier, and meter with frequency weighing networks, such as the A-weighting scale.

(7-1-94)

**11. Tachometer.** A device used to measure ~~revolutions per minute (RPM)~~ of an engine. Tachometers used to obtain sound level measurements may be permanently affixed to the OHV or may be portable units such as hand-held electric, vibrating reed, or inductive tachometers.

(7-1-94)(\_\_\_\_)